

**STATE OF MINNESOTA  
BOARD OF ARCHITECTURE, ENGINEERING,  
LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE  
AND INTERIOR DESIGN**

**In the Matter of  
Robert Bowlin, Unlicensed**

**SETTLEMENT AGREEMENT  
AND  
CEASE AND DESIST ORDER  
Board File No. 2004-0079**

**TO: Robert Bowlin  
600 Burlington Road  
Fort Worth, Texas 76179-1310**

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2006) and Minnesota Statutes section 326.111 (2006) to review complaints concerning the unauthorized practice of architecture, professional engineering, land surveying, landscape architecture, geoscience and interior design, and to take action pursuant to those statutes whenever appropriate.

The Board received a complaint concerning Bob Bowlin ("Respondent"). The Board's Complaint Committee ("Committee") reviewed the information. The parties have agreed that the matter may now be resolved by this Settlement Agreement and Cease and Desist Order.

**SETTLEMENT AGREEMENT**

IT IS HEREBY AGREED by and between Respondent and the Committee as follows:

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1. Jurisdiction. Pursuant to Minnesota Statutes section 326.111, subdivision 3 (2006), the Board is authorized to issue an order requiring an unlicensed person to cease and desist from holding out and/or practicing as an architect or a professional engineer in the State of Minnesota. Respondent is subject to the jurisdiction of the Board with respect to the matters referred to in this Settlement Agreement and Cease and Desist Order.

2. Facts. This Settlement Agreement is based upon the following facts:

a. Respondent is not currently and never has been licensed by the Board as an architect or a professional engineer in the State of Minnesota.

b. At the times relevant to the complaint received by the Board, Respondent was a licensed mechanical engineer in the State of Texas and owned or was associated with businesses, including Bowlin Engineering Company and Leland Southwest, that design, manufacture and install meat processing equipment, including meat rail and slaughter equipment. See, brochures of equipment sold by Respondent's businesses, true and correct copies of which are attached as Exhibit 1 and Respondent's letter dated December 7, 2006, a true and correct copy of which is attached as Exhibit 2.

c. Respondent represents himself as being experienced in preparing layouts of small meat plants. See, Respondent's letter, Exhibit 2.

d. Complainants are the owners of a food locker and meat processing facility located in a rural small town, Ulen, Minnesota. Complainants, when forced to make a decision to either close or upgrade their facility, chose to upgrade and expand it. However, they needed help with this project because they were unfamiliar with

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financing and construction. Complainants did not know the process for upgrading an existing building or for building a new food processing plant so that all federal requirements would be met. See, pages 4, 6, 7 and 8, Deposition of Trudy Briard, July 21, 2005, a true and correct copy of which is attached as Exhibit 3 and pages 4, 5, and 6, Deposition of Cameron Briard, July 21, 2005, a true and correct copy which is attached as Exhibit 4.

e. Respondent met with Complainants in February 2003 to discuss the building of a new food locker and meat processing plant. See, Page 9, Exhibit 3.

f. Respondent represented himself as an engineer licensed in the state of Texas to the Complainants, told them that he had experience building small meat processing plants and said he could help build their upgraded facility, including assisting with blueprints, layout, regulations, and equipment. See, pages 7 & 8, Deposition of Robert Bowlin, July 21, 2005, a true and correct copy of which is attached as Exhibit 5.

g. While there was no written contract that would have defined the business relationship or the responsibilities of the parties, Respondent described himself as the "project developer" for the new food locker. Respondent took control over much of the work for the building, met with banks to assist in obtaining financing, created drawings and plans of several designs (prepared in Texas), proposed equipment purchases, and prepared and updated cost estimates for the new facility. See, pages 1 and 2, Statement of Services to Complainants, written by Respondent on May 15, 2004, a true and correct copy of which is attached as Exhibit 6; pages 10, 12, 13,



14, 16 & 17, Exhibit 3.

h. Respondent created several sets of uncertified drawings of the proposed food locker and processing facility. The drawings were used for a variety of purposes, including but not limited to planning and designing the proposed facility, obtaining bids from subcontractors, making and updating cost estimates, review by bank officials involved in financing, and review by inspectors from the United States Department of Agriculture (USDA). A true and correct copy of a set of Respondent's drawings are available for review in the Board office. See, pages 11, 13 & 20, Exhibit 3.

i. On or about Feb. 17, 2004, Respondent presented plans to USDA inspectors for review.

j. On or about February 20, 2004, the Complainants terminated their business relationship with Respondent and subsequently refused to pay him. The Complainants hired licensed professionals and a contractor and began construction of their food locker and meat processing facility about two months later. See, pages 16 & 17, Exhibit 3 and page 10, Exhibit 4.

k. Respondent sent the Complainants a bill charging \$35,400.00 for "Drafting Design" (29.5 days) in addition to other services. See, page 3, Exhibit 6.

l. Respondent filed a lawsuit against the Complainants demanding payment for his work on the project, and his Complaint in that lawsuit clearly indicates he demanded payment for engineering and design services. See, Complaint, Clay County, Seventh Judicial District, Civil No. C8-05-431, a true and correct copy which is attached as Exhibit 7. Portions of Exhibit 7 relevant to this matter include:

6-12-63  
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1. Respondent's Complaint stated and alleged that on or about January 7, 2003, he entered into a contract with the Complainants and he agreed to provide the necessary engineering, design and costing services necessary for the construction of a new meat packing plant facility. See, Paragraph 6 on page 2, Exhibit 7.

2. Respondent's Complaint stated and alleged that "Pursuant to the aforementioned contract, Bowlin provided the necessary engineering, design and costing services for the construction and improvement to the Property." See, Paragraph 7 on page 2 of Exhibit 7.

3. Respondent's Complaint stated and alleged in an attached Mechanic's Lien Statement that "The lien claimant provided engineering and design services related to project development and improvement to the land." See, paragraph 4 on attachment A of Exhibit 7.

4. Respondent's Complaint stated and alleged that "The price and fair and reasonable value of the labor and skill provided by Bowlin in connection with the engineering, design and costing services provided for improvement of the Property is \$68,330.00...." See, Paragraph 11, on page 2 of Exhibit 7.

m. Respondent testified in a deposition that he provided "engineering design services" to the Complainants and that he created uncertified design drawings in Texas. See, page 10, Exhibit 5.

n. Respondent was not supervised by any Minnesota licensed



professional when he provided design or engineering services for the proposed food locker and food processing facility. See, Exhibit 2 and, Letter from ISS Engineering, a true and correct copy of which is attached as Exhibit 8.

o. At the times relevant to the Complaint received by the Board, Respondent's statements and representations to Complainants conveyed, or tended to convey, the impression that he is a professional engineer able to practice professional engineering in State of Minnesota.

p. Respondent's preparation of drawings for the proposed food locker and food processing facility in Ulen, Minnesota constitute the unlicensed practice of architecture and professional engineering.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.02 subdivisions 1, 2, and 3, (2006) and Minnesota Statutes section 326.03, subdivision 1, (2006), and are sufficient grounds for the action specified below.

4. Enforcement Action. Respondent and the Committee agree that the Board may issue an Order in accordance with the following terms:

a. Cease and Desist Order. Respondent shall cease and desist from holding himself out as a professional engineer and from practicing professional engineering and architecture in Minnesota, and from further violations of Minnesota Statutes sections 326.02 through 326.15 (2006) until such time as he becomes licensed as an architect and/or professional engineer in the State of Minnesota.

b. Civil Penalty. Respondent shall pay to the Board a civil penalty of

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Five Thousand Dollars (\$5,000.00) for holding out as a professional engineer and for the unlicensed practice of architecture and professional engineering, divided into two equal payments. Respondent shall submit a first payment of the civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) in the form of a cashier's check or money order, made payable to the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design, within sixty (60) days of the date of the Board's approval of this Settlement Agreement and Cease and Desist Order. Respondent shall pay the remaining civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500.00), made payable to the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design, which must be received by the Board no longer than six (6) months from the date the first payment was due.

5. Judicial Relief. If the Respondent violates paragraph 4 above, a district court of this State may, upon application of the Committee, enter an Order enjoining Respondent from such unauthorized practices, ordering Respondent to show cause why the required civil penalty has not been paid, and granting the Board its costs, reasonable attorney fees, and other appropriate relief.

6. Waiver of Respondent's Rights. For the purpose of this Settlement Agreement, Respondent waives all procedures and proceedings before the Board to which Respondent may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the allegations against Respondent and to dispute the appropriateness of discipline in a



contested case proceeding pursuant to Minnesota Statutes Chapter 14 (2006). Respondent agrees that upon the application of the Committee without notice to or an appearance by Respondent, the Board may issue an Order requiring the action specified in paragraph 4 herein. Respondent waives the right to any judicial review of this Settlement Agreement and Cease and Desist Order or the attached Board Order by appeal, writ or certiorari, or otherwise.

7. Collection. In accordance with Minnesota Statutes section 16D.17 (2006), in the event this order becomes final and Respondent does not comply with the condition in paragraph 4(b) above, Respondent agrees that the Board may file and enforce the unpaid portion of the civil penalty as a judgment without further notice or additional proceedings.

8. Board Rejection of Settlement Agreement and Cease and Desist Order. In the event the Board in its discretion does not approve this Settlement Agreement and Cease and Desist Order, this Settlement Agreement shall be null and void and shall not be used for any purpose by either party hereto. If this Settlement Agreement is not approved and a contested case proceeding is initiated pursuant to Minnesota Statutes Chapter 14 (2006), Respondent agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this Settlement Agreement and the record.

9. Record. The Settlement Agreement, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the Order is based. The investigative reports, other documents, or summaries





thereof may be filed with the Board with this Settlement Agreement.

10. Data Classification. Under the Minnesota Government Data Practices Act, this Settlement Agreement and Cease and Desist Order is classified as public data upon its issuance by the Board, Minnesota Statutes section 13.41, subdivision 5 (2006). All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (2006). They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. A summary of this Settlement Agreement and Cease and Desist Order will appear in the Board's newsletter. A summary will also be sent to the national discipline data bank pertaining to the practices of architecture and engineering.

11. Unrelated Violations. This settlement shall not in any way or manner limit or affect the authority of the Board to proceed against Respondent by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Respondent justifying disciplinary action which occurred before or after the date of this Settlement Agreement and which is not directly related to the specific facts and circumstances set forth herein.

12. Entire Agreement. Respondent has read, understood, and agreed to this Settlement Agreement and Cease and Desist Order and is freely and voluntarily signing it. The Settlement Agreement and Cease and Desist Order contains the entire agreement between the parties. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.



13. Counsel. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

14. Service. If approved by the Board, a copy of this Settlement Agreement and Cease and Desist Order shall be served personally or by first class mail on Respondent. The Settlement Agreement shall be effective and deemed issued when it is signed by the Chair of the Board.

RESPONDENT

By: Robert P. Bowlin  
Robert Bowlin

Dated: Jan 5, 2008

COMPLAINT COMMITTEE

By: Billie Lawton  
Billie Lawton, Public Member  
Complaint Committee Chair

Dated: 1-18-08, 2008

ORDER

Upon consideration of the foregoing Settlement Agreement and based upon all the files, records and proceedings herein, all terms of the Settlement Agreement are approved and hereby issued as an Order of this Board on this, the 18<sup>th</sup> day of January 2008.

MINNESOTA BOARD OF  
ARCHITECTURE, ENGINEERING,  
LAND SURVEYING, LANDSCAPE  
ARCHITECTURE, GEOSCIENCE AND  
INTERIOR DESIGN

By: Kristine A. Kuehn

Dated: January 18, 2008



# LOOK, IF YOU'RE IN THE STEEL BUSINESS, THIS WATER TABLE WILL HELP YOU CUT IT.

Whether you're cutting thin steel plate or hefty stock up to 8" thick, you need a Bowlin Water Table underneath it all. Built to your specifications, to fill your particular needs, Bowlin Water Tables can be up to 65' long and up to 24' wide.

Heavy, durable construction using a minimum of 1/4" plate combined with a full length fixture

gives an absolutely straight and level table over its entire length.

The water in the table is raised to the proper level by air pumped into the airtight bottom compartment. Water emerges from ports down a central channel and rises through special cutting bars supporting the steel to be cut. These bars, usually on 3-3/4" centers, are expendable and easily replaced.

Bowlin Water Tables are completely grounded for safe operation, whatever the cutting process. If you're thinking of a new cutting installation, call Paul Bowlin for a recommendation and a price. Your operation can use this kind of support.

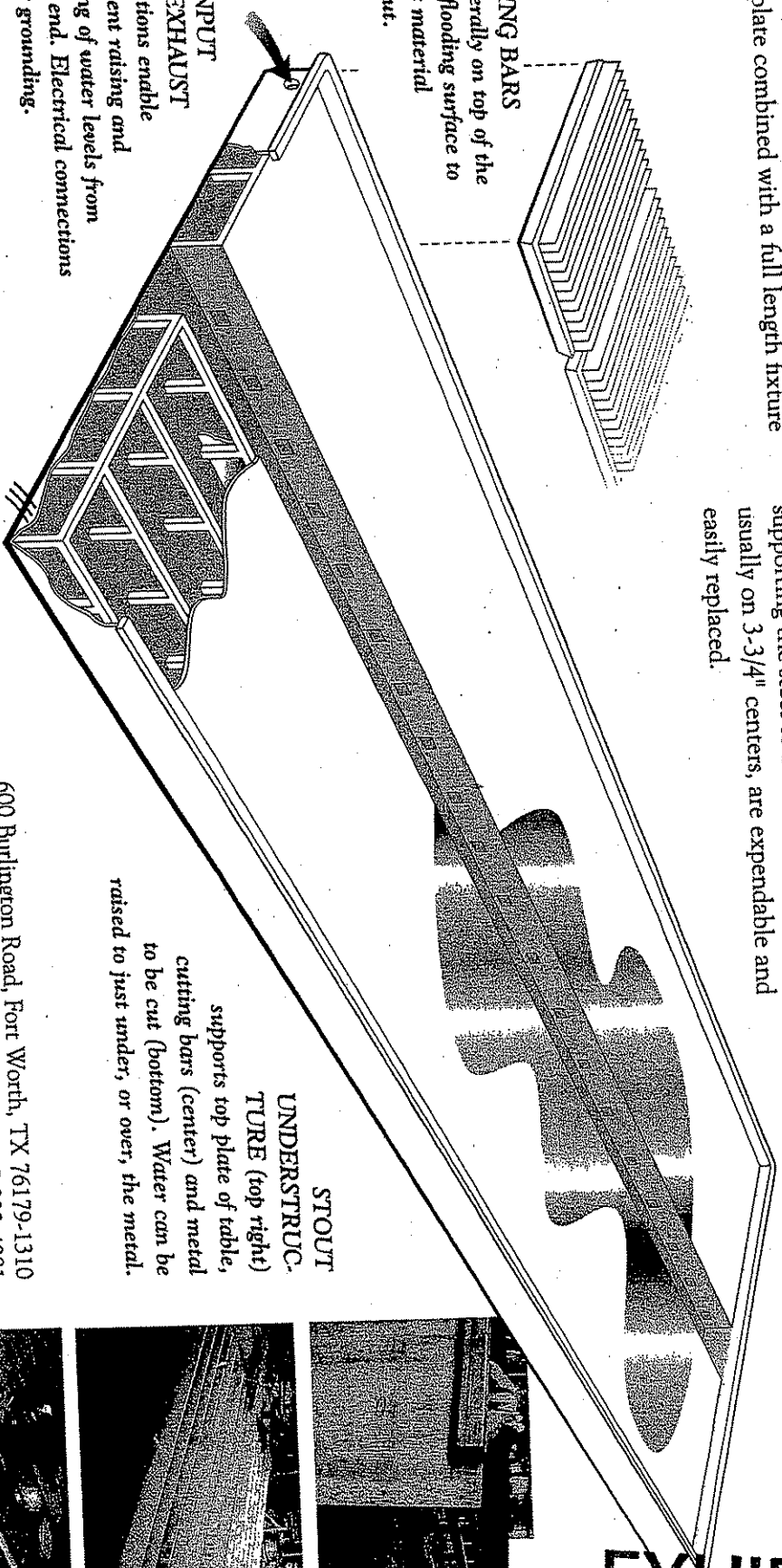
EXHIBIT

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**CUTTING BARS**  
run laterally on top of the table's flooding surface to support material being cut.

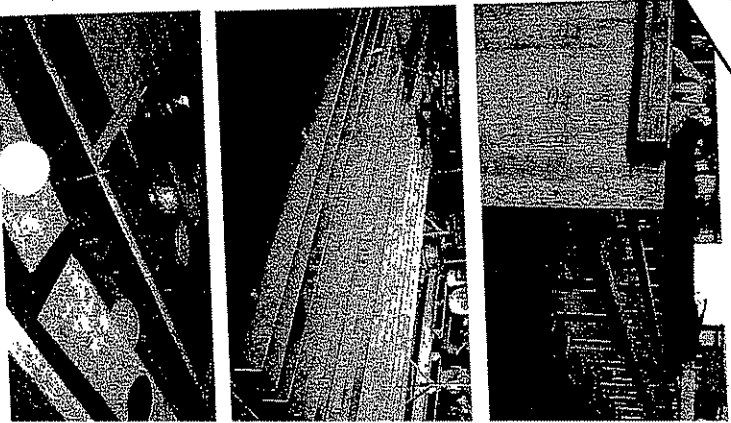
**AIR INPUT AND EXHAUST**  
connections enable consistent raising and lowering of water levels from end to end. Electrical connections are for grounding.

**STOUT UNDERSTRUCTURE (top right)**  
supports top plate of table, cutting bars (center) and metal to be cut (bottom). Water can be raised to just under, or over, the metal.



**POWLIN Engineering Co.**

600 Burlington Road, Fort Worth, TX 76179-1310  
Telephone 817-232-2020 Fax 817-232-4081  
[www.bowlinengineering.com](http://www.bowlinengineering.com)  
[paul@bowlinengineering.com](mailto:paul@bowlinengineering.com)



## REMEMBER THESE BOWLIN WATER TABLE FEATURES:

1. Fixture built to give a straight, level table.
2. Lattice internal support structure carries plate weight directly to floor.
3. Rectangular tubing top reinforcement withstands punishing use.
4. Uses regular plant air to raise water.
5. Removable pans are easy to clean and keep table in production.
6. Inside of table chambers and outside bottom of table are coated with anti-oxidene™ tank sealing compound to help control corrosion.

### Also available:

1. Dry cutting tables
2. Downdraft air flow tables

# BOWLIN Engineering Co.

600 Burlington Road, Fort Worth, TX 76179-1310

Telephone 817-232-2020 Fax 817-232-4081

[www.bowlinengineering.com](http://www.bowlinengineering.com) paul@bowlinengineering.com

# **BOWLIN** *Engineering Co.*

## **SELF-CLEANING DOWNDRAFT TABLE**

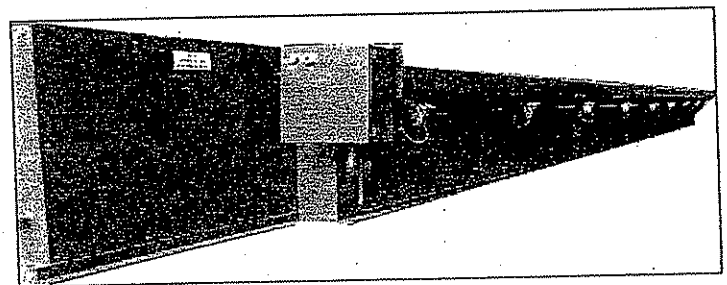
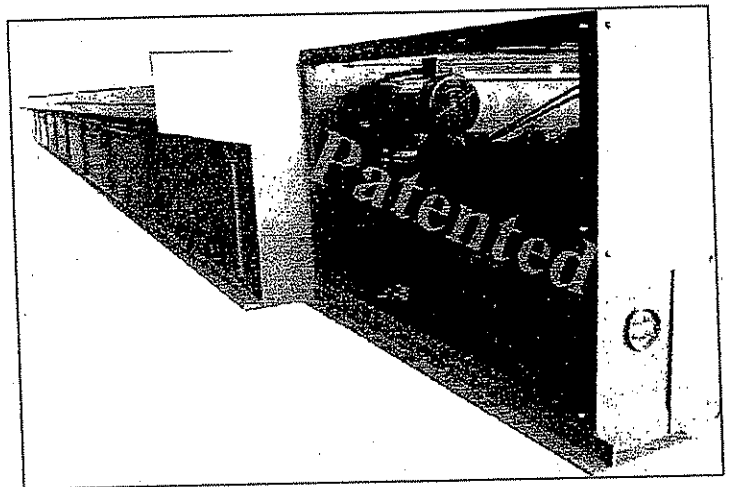
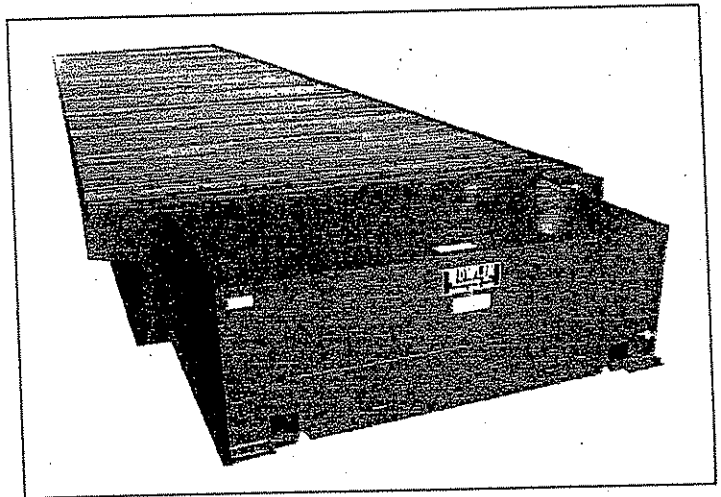
**LOOK,**

***IF YOU'RE IN THE CUTTING BUSINESS THIS  
DOWNDRAFT TABLE WILL HELP YOU  
KEEP IT CLEAN!***

Whether you're cutting thin sheet or plate up to 4" thick (or up to 8" thick with added heat shields), you need a Bowlin self-cleaning downdraft under it all. Built to your specifications and your particular needs, Bowlin self-cleaning downdrafts are fixture built up to 24' wide and 30' long.

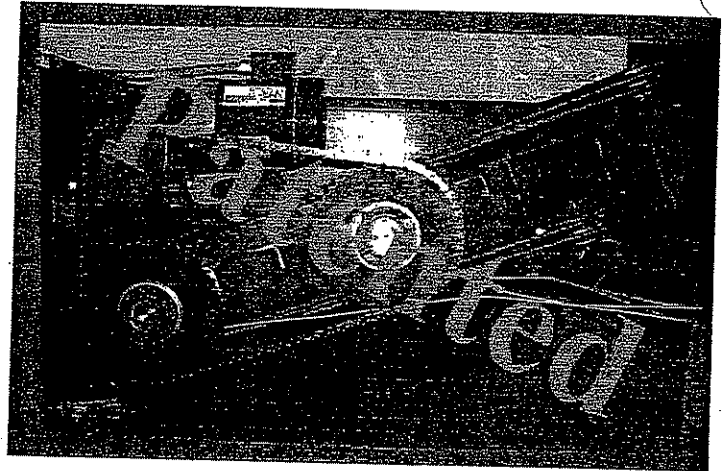
Heavy, durable construction with Structure parts from 3/8" to 3/4" thick, top covers 1/4" thick, and heavy doors made from 12 ga thick steel. Our full length fixture gives an absolutely straight and level table over its entire length.

Air operated draft doors divide the downdraft into 5' zones decreasing the required air flow. Standard 5' zones are operated by proximity switches as the cutting machine moves up and down the cutting table. Benefit: No contact to the gantry, which allows a steady torch cut.



# **EXHIBIT 1**

Slag is removed from outside the cut area with a scraper. The Scraper travels along the bottom of the table and pushes the slag up a ramp then the slag is dumped into a roll out pan. The pan can then easily be rolled out and emptied with a crane or a forklift. Our patented drive mechanisms are located out of the slag and cutting zone; In fact, you can cycle the scraper and dump operation while cutting.



During the clean operation the two continuous cables pull the scraper through the clean and returns motions; the scraper lifts on the return stroke so no slag is pushed away from the slag roll out pan.



### **REMEMBER THESE BOWLIN SELF CLEANING DOWNDRAFT TABLE FEATURES!**

- Fixture built to give a straight, level table.
- Scraper drive mechanism located out of the cutting zone.
- No electrical cords slide or cord reels to repair.
- Zoned operation- 5' standard, 2.5' optional.
- Cutting bars 3/16 x 4 - 4" O.C.
- Small parts catch screen below cutting bars.
- No holes in floor for slag pan.
- Slag pan rolls out for easy dumping.
- Cartridge filter box.
- Optional cyclone pre filter or spark arrestor and HEPA final filter.

#### **Company Information:**

Bowlin Engineering Co.  
600 Burlington Rd.  
Fort Worth TX 76179

Phone: 817-232-2020

FAX: 817-232-4081

Year est. 1966

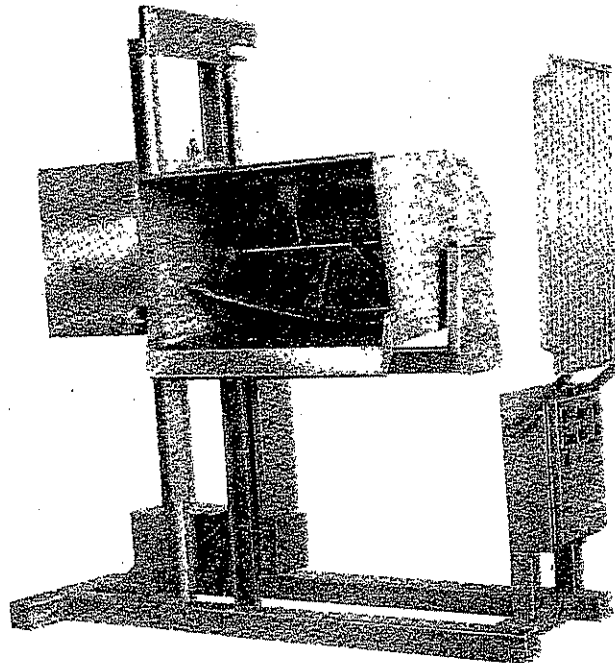
<http://www.bowlinengineering.com>

[Sales@BowlinEngineering.com](mailto:Sales@BowlinEngineering.com)

Company description: Material Handling



# Raise your profits to new heights!



## The Leland Southwest Double Action™ Hydraulic Mixer

Need a lift? The Leland Southwest Double Action™ Hydraulic Mixer lets you decide how high to dump your product. With three convenient levels you select, the tank will automatically dump into any meat truck or hopper. A new stand and a lower tank make loading quicker and easier. As always, our unique Double Action paddle design gives you a gentle, even blend, quickly and consistently.

Other features include a completely enclosed motor drive, a jog feature for easy unloading and polished 304 stainless steel construction for quick cleanup. The Leland Southwest Double Action Hydraulic Mixers are designed for 300- to 600-pound batch sizes. All models are USDA-approved, use UL-listed components and are made in the United States. For a new lift in profitability, call Leland Southwest today. (817) 232-4482.



## Leland Southwest

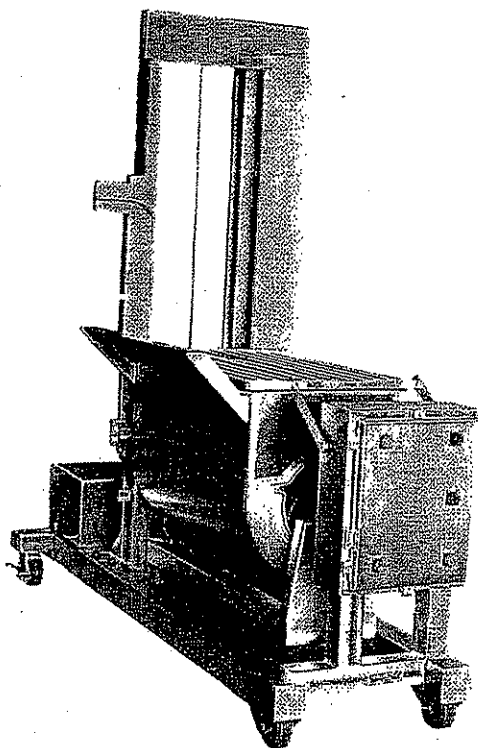
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# EXHIBIT 1

[www.lelandsouthwest.com](http://www.lelandsouthwest.com) • email: [sales@lelandsouthwest.com](mailto:sales@lelandsouthwest.com)

# Double Action Mixer Series

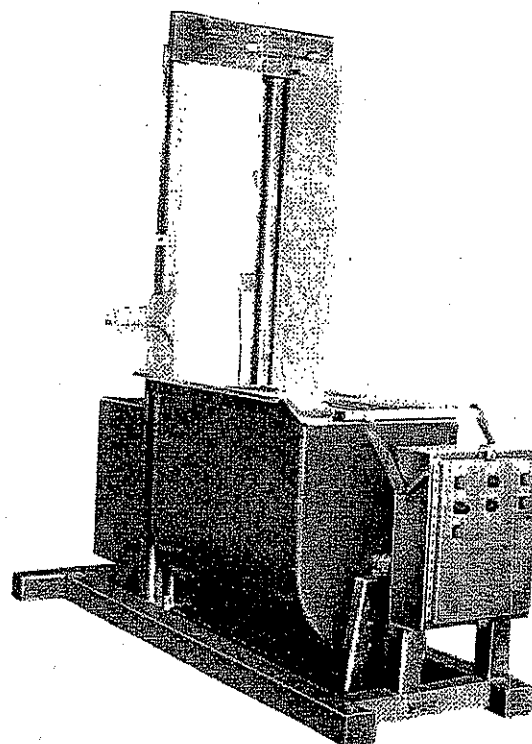
Choose the industry standard for quality mixing equipment: Leland Southwest Mixers.



## Specifications for the L300DA90-H

Nominal mixing capacity*	136 kg	300 lbs.
Tank capacity	235 lt	248 qt.
Overall width	880 mm	34.5 in.
Overall length	1,960 mm	77 in.
Overall height	2,110 mm	83.125 in.
Tank width	480 mm	19 in.
Tank length	910 mm	36 in.
Tank depth	580 mm	23 in.
Dump height	up to 1,070 mm	up to 42 in.
Motor (standard)	2 HP 3 PH	230/460 V 60 Hz.
Control voltage	120 V	
Outer paddle speed	25 RPM	
Inner paddle speed	23 RPM	
Weight	272 kg	600 lbs.

\*Mixer capacity will vary according to product consistency.



## Specifications for the M400DA90-H

Nominal mixing capacity*	181 kg	400 lbs.
Tank capacity	343 lt	362 qt.
Overall width	1,020 mm	40 in.
Overall length	2,010 mm	79 in.
Overall height	2,340 mm	92 in.
Tank width	570 mm	22.5 in.
Tank length	910 mm	36 in.
Tank depth	710 mm	28 in.
Dump height	up to 1,220 mm	up to 48 in.
Motor (standard)	3 HP 3 PH	230/460 V 60 Hz.
Control voltage	120 V	
Outer paddle speed	25 RPM	
Inner paddle speed	23 RPM	
Weight	408 kg	900 lbs.

Distributed by:



# Leland Southwest

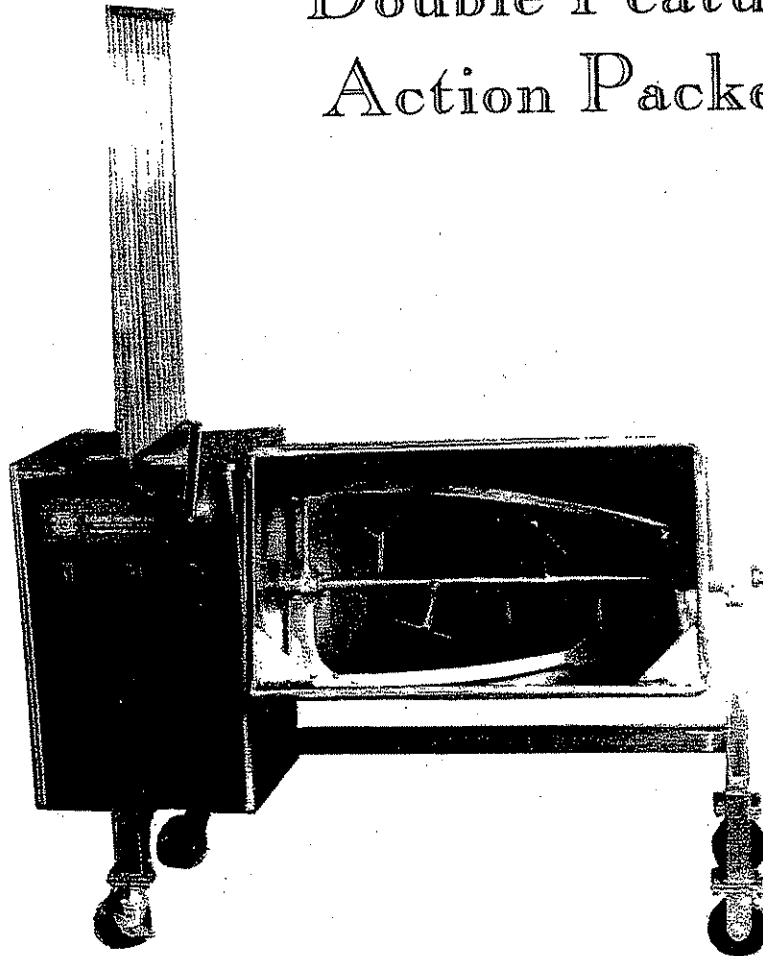
For more information, please call or write Leland Southwest:

600 Burlington Road • Fort Worth, Texas 76179-1310

(817) 232-4482 • FAX (817) 232-4081

www.lelandsouthwest.com • email: sales@lelandsouthwest.com

## Double Feature. Action Packed.



The Leland Southwest I-300DA90 Double Action Mixer

No more mini-loads. The Leland Southwest Double Action I-300DA90 provides the answer to your questions about increased productivity. Extra-large capacity increases production. And Double Action decreases mixing time. Such a combination increases profits whether you're upgrading a facility or starting a new business. Other features include a completely enclosed motor drive, a jog feature for easy unloading and polished 304 stainless steel construction for quick clean-up. The Leland Southwest I-300DA90 is USDA-approved, uses UL-listed components and is made in the United States. When profits matter most, call Leland Southwest at (817) 232-4482.

EXHIBIT 

# Leland Southwest

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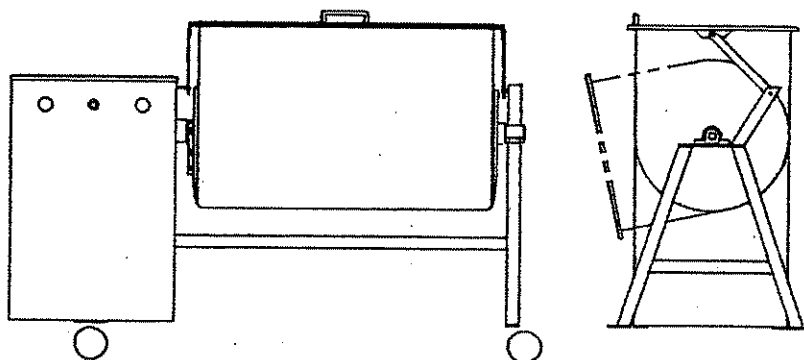
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## Double Action Mixer Series

Increase efficiency with higher production and shorter mixing times when you pick the mixer that says Leland Southwest Double Action: the I-300DA90 -- built for productivity, built to last.

### Design Features

- Exclusive Double Action paddle design
- Controls mounted on separate enclosure
- Removable inner paddles
- Totally enclosed drive
- Jog control for easy unloading
- Polished 304 stainless steel construction
- Efficient, totally-enclosed gear box
- Tank tilts for easy unloading
- Unique, bar-style lid
- Rolls on five-inch casters



### Specifications

	I200DA90		I300DA90	
Overall capacity	200 lb.	(91 kg)	300 lb.	(136 kg)
	179 qt.	(170 lt.)	250 qt.	(237 lt.)
Overall width	26 in.	(660 mm)	26 in.	(660 mm)
Overall length	55 in.	(1397 mm)	65 in.	(1651 mm)
Overall height	39 in.	(991 mm)	39 in.	(991 mm)
Tank width	19 in.	(483 mm)	19 in.	(483 mm)
Tank length	26 in.	(660 mm)	36 in.	(914 mm)
Tank depth	23 in.	(584 mm)	23 in.	(584 mm)
Dump height	18 in.	(457 mm)	18 in.	(457 mm)
Weight	400 lb.	(181 kg)	450 lb.	(204 kg)
Standard motor	2 HP	3 PH	230 V.	60 Hz
Motor options	220/3/50	380/3/50	460/3/60	575/3/60
Outer paddle speed	25 RPM		25 RPM	
Inner paddle speed	23 RPM		23 RPM	

### Safety Features of the Leland Southwest Mixer

- Safety switch shuts off motor if cover is raised.
- Easily accessible stop button immediately shuts off unit.

Distributed by:



## Leland Southwest

For more information, please call or write Leland Southwest:

600 Burlington Road • Fort Worth, Texas 76179-1310

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# Double Action Mixer Series

Our Leland Southwest Double Action Mixers stand out by blending in – quickly and consistently, time after time.

## Specifications for Leland Southwest Double Action Hydraulic Lift Mixers

	M400DA90-H	600DA90-HLS	DW1200DA90HLS
Nominal Mixing Capacity*	400 lb (181 kg)	600 lb (272 kg)	1200 lb (544 kg)
Tank Capacity	363 qt (343 l)	523 qt (495 l)	1055 qt (998 l)
Overall Width	40" (1016 mm)	48" (1220 mm)	48" (1220 mm)
Overall Length	79" (2006 mm)	79" (2006 mm)	118" (2997 mm)
Overall Height	92" (2337 mm)	101" (2565 mm)	102" (2591 mm)
Tank Width	22.5" (572 mm)	28" (711 mm)	34" (864 mm)
Tank Length	36" (914 mm)	36" (914 mm)	48" (1220 mm)
Tank Depth	28" (711 mm)	33.5" (851 mm)	42" (1067 mm)
Dump Height	Up to 48" (1220 mm)	39" (991 mm)	Up to 46" (1168 mm)
Load Height	39" (991 mm)	44" (1118 mm)	48" (1220 mm)
Weight	900 lb (408 kg)	3200 lb (1452 kg)	5000 lb (2268 kg)
Outer Paddle Speed	25 rpm	21 rpm	16 rpm
Inner Paddle Speed	23 rpm	18 rpm	15 rpm
Motor	3 hp (2.2 kw)	5 hp (3.7 kw) Variable Speed	10 hp (7.5 kw) Variable Speed
Hydraulic Pump	2 hp (1.5 kw)	3 hp (2.2 kw)	5 hp (3.7 kw)
Voltages Available	208/3/60, 230/3/60, 460/3/60, 575/3/60, 380/3/50		

\*Mixer capacity will vary according to product consistency

### Safety Features of the Leland Southwest Mixer

- Safety switch shuts off if cover is raised.
- Easily accessible emergency stop button immediately shuts off unit.

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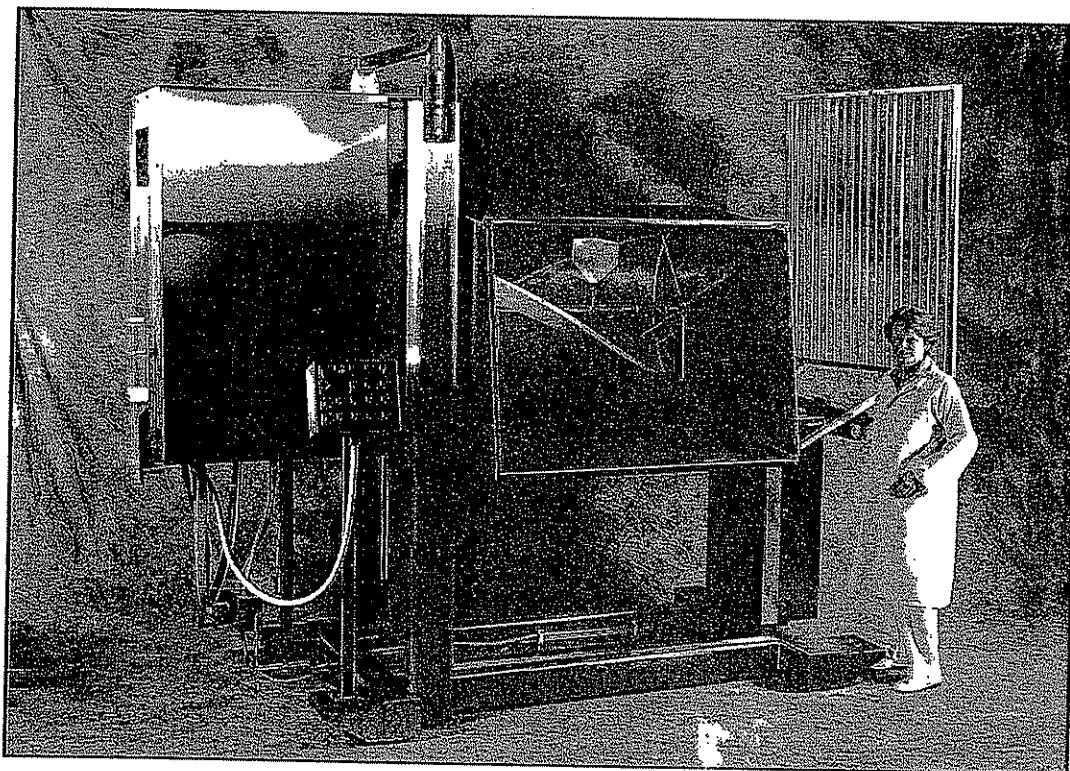
**EXHIBIT 1**



## Leland Southwest

For more information, please call or write Leland Southwest:  
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(817) 232-4482 • FAX (817) 232-4081

## RAISE YOUR PROFITS TO NEW HEIGHTS!



The Leland Southwest Double Action™ Hydraulic Mixer

Leland Southwest announces the 1,200 Hydraulic-lift "Double Action" Mixer which completes the 400, 600, and 1200 Hydraulic-lift Institutional/Commercial "Double Action" Mixer Series. Counter rotating "Double Action" design has set the standard for quick, gentle blending without destroying product integrity for years. The Hydraulic-lift design keeps the mixer low for loading and raises the unit for ease of unloading. Capacities are from 100 to 1,600 pounds.

Leland Southwest also manufactures high production, heavy duty Vacuum Tumblers designed for ease of use from 100 to 2,000 pounds.



# Leland Southwest

600 Burlington Road • Fort Worth, Texas 76179-1310 • (817) 232-1402 • FAX (817) 232-1001

# **BOWLIN** *Engineering Co.*

600 BURLINGTON ROAD ★ FORT WORTH, TEXAS 76179-1310 ★ 817/232-2020 ★ FAX 817/232-4081  
website: [www.bowlinengineering.com](http://www.bowlinengineering.com) ★ email: [paul@bowlinengineering.com](mailto:paul@bowlinengineering.com)

December 7, 2006

DEC 12 2006

In reply to: File No. 2004-0079

Ms. Patricia J. Litchey, J.D.  
**Minnesota Board of Architecture, Engineering, Land Surveying, Landscape  
Architecture, Geoscience & Interior Design**  
85 East 7th Place, Suite 160  
St. Paul, MN 55101

Dear Ms. Litchey,

Thank you for the opportunity to respond to your October 31, 2006 letter concerning the Ulen Locker project in Minnesota.

The letterhead on this response is the same that we have used since 1966, except the web address has been added. Bowlin Engineering Co. (BEC) was formed in 1965 to design, manufacture, and install material handling equipment and systems. Our current major products are Cutting Tables used with computer operating cutting machines. For 40 years BEC has also designed and built meat processing equipment, meat rail and slaughter equipment.

In the early 1970's I made the first layout of a small meat plant, which was approved by the USDA. Prior to the Wholesome Meat Act being passed by Congress, the USDA was not involved with small meat plants. Most small meat plants had no governing authority regulating the layouts. Also, only a few states had layout approval procedures at that time. These layouts which were made by many companies did not require stamped drawings because the layouts could not be used for construction. The USDA regulations for layouts were required to show product flow, equipment placement, and enough dimensions to indicate clearances for product processing in a sanitary manner according to Federal Standards. The construction drawings were made by licensed Engineers and Architects using the approved layouts as a guide. This procedure or process has been used successfully for many years. On two occasions I have been on the Convention program at the American Meat Processors Association (AAMP) discussing small meat plant design layouts.

Because of this background the Briards at Ulen Locker were referred to me. They called me in Fort Worth in 2002 and asked if I could help them with a new meat plant. The Briards had previously gotten a plant layout prepared by another firm but they felt it was not suitable for their needs and was for a stand-alone building. One of the first things I did was call the Minnesota Licensing Board to see if there was reciprocity with Texas for a one time project.

**EXHIBIT 2**

MATERIAL HANDLING SYSTEMS

**FILE COPY**

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Since there was no reciprocity, all of the construction drawings would require Minnesota Licensed Engineers and Architects. BEC did not have any Minnesota Licensed Engineers on staff. During the layout work we contacted two firms we have known and each agreed to make the required construction drawings for the project.

Jeri Zuber, Zuber Architects, was going to make all necessary architectural drawings for the plant construction but we were released before he made any drawings.

Craig Blahut, Innovative Structural Solutions (ISS), was contracted to do all structural work for the plant.

After my first meeting with the Briards about their requirements for the plant, they were approached by the City of Ulen about using an existing building in the city. I then worked to see if any layout could be fitted into the existing building. An addition was required to use the existing building. As part of the layout Craig Blahut, ISS, was asked to check for snow loadings and what restrictions there were in placing an addition adjacent to the existing building. He calculated this for me and this information was used in making the layouts for the USDA approval or review.

Even in Texas, where I am licensed, we have always used other Engineers for foundation, building structure, and code compliance. The Minnesota project was planned the same way. Immediately after having the layouts for the Ulen Locker reviewed by the USDA in February 2004, we were released from the project by the Briards. The USDA did want two rooms switched in the layout. Because of the timing of our release there were no construction drawings prepared by either J. Zuber or Craig Blahut at ISS. Therefore, there were no stamped drawings. Because the Briards had no money as they have stated, I did not release either Zuber or ISS to make drawings prior to the USDA review. Since BEC was paying all expenses and there was a long delay in getting the financing in place this seemed prudent. Had drawings been prepared prior to the USDA review, we would have incurred much additional expense making the changes.

Part of the dispute probably was that the Briards thought that the information furnished to the USDA would be sufficient for them to build their plant. I had explained to them in early 2003 that drawings were required using Minnesota Engineers. One other disagreement was over some equipment that I did not feel that they could justify in their new plant. The Briards wanted this equipment regardless of the very high cost to them.

We did enter into litigation and were able to collect enough money to pay ISS for their Engineering work and some of my expenses in getting the Briards to the USDA review. It was interesting that one of the Briards claims against me during litigation was that I had done no Engineering work for them.

## **EXHIBIT 2**

MATERIAL HANDLING SYSTEMS



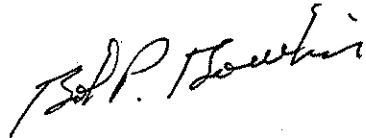
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All the Engineering and Architectural work was scheduled for the 6weeks after the USDA review in February 2004.

I hope that this narrative is sufficient and answers all of your questions; if not please contact me.

Sincerely,



Bob P. Bowlin  
Bowlin Engineering Co.

mb

Enclosures

**EXHIBIT 2**

MATERIAL HANDLING SYSTEMS



tbriard

0001

STATE OF MINNESOTA IN DISTRICT COURT  
COUNTY OF CLAY SEVENTH JUDICIAL DISTRICT

Case Type: Other Civil

Bowlin Engineering Co.,  
Plaintiff,

vs.

Cameron Briard and Trudy Briard, d/b/a  
Ulen Locker; Northwestern Bank, N.A.; and  
West Central Initiative; and United States  
of America, acting through the Small  
Business Administration,

Defendants.

DEPOSITION  
of

TRUDY BRIARD  
July 21, 2005  
12:45 o'clock P.M.

Taken at: Stefanson Law Firm  
Third Floor U.S. Bank Building  
403 Center Avenue  
Moorhead, Minnesota

REPORTER: DOUGLAS T. KETCHAM

(PURSUANT TO NOTICE)

0002

A P P E A R A N C E S

WICKHAM CORWIN

Attorney at Law  
of

CONMY FESTE LTD  
Wells Fargo Center  
406 Main Avenue  
Fargo, North Dakota 58103

COUNSEL FOR PLAINTIFF

RANDOLPH E. STEFANSON

Attorney at Law  
of

STEFANSON LAW  
Third Floor U.S. Bank Building  
403 Center Avenue  
P.O. Box 1287  
Moorhead, Minnesota 56561-1287

COUNSEL FOR DEFENDANTS

ALSO PRESENT: Cameron Briard  
Robert Bowlin  
Dale Hetland

EXHIBIT 3

tbriard

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I N D E X

WITNESS	PAGE NO.
Trudy Briard	
Examination -- by Mr. Corwin	4

WHEREUPON:

The following proceedings were had to-wit:  
TRUDY BRIARD, a Defendant, called by  
the Plaintiff, being first duly sworn, testified  
on her oath as follows:

BY MR. CORWIN

EXAMINATION

Q. I think we met earlier. I'm Wick  
Corwin. You know that I represent Mr. Bowlin in  
this case.

A. Yes.

Q. Have you ever been through a  
deposition before?

A. No, I have not.

Q. You've now at least seen one so you  
know how it works. I'm sure you and Randy have  
talked about it. Just a couple requests if I  
could before we get started. First, if I am not  
making any sense at any time, just let me know  
and I will be more than happy to rephrase my  
question. The last thing I want is any  
confusion, okay?

A. Uh-huh.

Q. Then I think the only other request  
I make is when it's your turn to answer if you  
could do so audibly rather than by nodding your

head one way or the other.

A. Okay.

Q. Doug has a hard time with those  
kinds of things. What's your name and where do  
you live?

tbriard

6 A. My name is Trudy, T-r-u-d-y, Briard,  
7 B-r-i-a-r-d, from Ulen, Minnesota.  
8 Q. You mind if I call you Trudy?  
9 A. That's fine.  
10 Q. Your husband is Cameron, of course?  
11 A. Correct.  
12 Q. And I understand the two of you have  
13 a meat processing business?  
14 A. Correct.  
15 Q. And what's the name of your  
16 business?  
17 A. Ulen Locker.  
18 Q. The existing facility, the one that  
19 we're, I guess, talking about today, when was  
20 that completed and open for operation?  
21 A. September of 2004.  
22 Q. And since September of 2004 has that  
23 been you're only business?  
24 A. Yes.  
25 Q. Ulen Locker. Are you personally  
0006 involved with the business?  
1 A. Yes.  
2 Q. What is your role in the business?  
3 A. Secretary, bookkeeper, meat wrapper,  
4 whatever needs to get done I guess.  
5 Q. Now I haven't been there, but I  
6 understand it's in downtown Ulen?  
7 A. Yeah.  
8 Q. And how large a town is Ulen?  
9 A. Five hundred eighty people.  
10 Q. My geography is so terrible. I have  
11 to ask you where Ulen is.  
12 A. You know where Hawley is?  
13 Q. Yes.  
14 A. We are 15 miles north of Hawley.  
15 Q. Cameron's role in the business, tell  
16 me a little bit about that.  
17 A. Owner, meat cutter, manager,  
18 whatever else needs to be done I guess.  
19 Q. Now as I understand it, the Ulen  
20 Locker, processing livestock, slaughters and  
21 processes livestock?  
22 A. Yes. That's right.  
23 Q. What types of livestock do you  
24 process?  
25  
0007 A. Beef, pork, buffalo, sheep.  
1 Q. Oh, buffalo?  
2 A. Yes.  
3 Q. That's been true since you opened in  
4 September of '04?  
5 A. Yes. That's right.  
6 Q. So back up in time. Did you have a  
7 similar but a smaller business some other place?  
8 A. Yes. We had a custom locker plant  
9 just on the other side of town from where we are  
10 now for 13 years prior to this.  
11 Q. What is a custom locker plant?  
12 A. It's a state facility that we just  
13 do work for you. If you own the animal, then  
14 you call us up and you want it slaughtered and  
15 processed, we do the work for you.  
16

tbriard

17 Q. Okay. But you are not selling the  
18 meat on a retail basis, is that the difference?

19 A. Right.

20 Q. So if I have a cow that I want to  
21 eat, I could bring it to you in the old business  
22 and you'd cut it up for me?

23 A. Yup.

24 Q. And store it for me?

25 A. Yup.

0008

1 Q. But now you are buying livestock,  
2 processing livestock and selling the meat on a  
3 retail basis?

4 A. No. We buy in box meat to sell on  
5 retail. We haven't bought any livestock from  
6 local yet.

7 Q. Is that part of your future plans  
8 you will?

9 A. We can do it. We can do it. We  
10 just haven't yet.

11 Q. So you're still doing custom, a lot  
12 of custom work at your present business?

13 A. Yes.

14 Q. Is that still the majority of what  
15 you do?

16 A. Probably, yes.

17 Q. But you do have a retail store, for  
18 want of a better term, as part of Ulen Locker?

19 A. Uh-huh.

20 Q. What do you sell in that store  
21 beyond meat, anything?

22 A. Just meat.

23 Q. No fresh produce or milk or anything  
24 like that?

25 A. No. No. Just meat.

0009

1 Q. How has the business been going for  
2 you since it opened?

3 A. All right.

4 Q. Good. The decision to expand your  
5 original business, the custom locker plant, to  
6 your current business, when, let's start at the  
7 beginning, when did you and Cameron first begin  
8 to discuss that concept or that decision?

9 A. It's probably been two or three  
10 years ago now. Three years probably.

11 Q. And why did you decide that was the  
12 direction you wanted to go?

13 A. Well, our old, past facility was  
14 old. It was built in 1939 and we had maxed it  
15 out for what we, for what we could do anymore.  
16 We needed more space for one thing. The State  
17 was starting to frown upon certain things. We  
18 had an outdoor block smoke house which is not  
19 allowable anymore so we needed to make some  
20 facility changes and the facility itself wasn't  
21 worth putting any money into. The structure was  
22 old and had lived its life and it was either to  
23 drop that and rebuild or change occupation or  
24 do, or build something new somewhere else.

25 Q. Incidentally, I should ask a few

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1 more questions before I get too involved in this

EXHIBIT 3

tbriard

2 part of it. Get maybe a little personal for a  
3 minute. What's your educational background  
4 first of all?

5 A. Mine? High school education.  
6 Q. And the previous business, the  
7 custom locker plant, were you personally  
8 involved with that as well?

9 A. I did the bookkeeping. I was off  
10 and on meat wrapper and I did whatever I guess  
11 was needed.

12 Q. And, of course, Cameron was involved  
13 with that business?

14 A. Yeah. He ran it.

15 Q. During the years you ran that  
16 business, did either of you have any additional  
17 work, any additional jobs?

18 A. No.

19 Q. The original facility, was that also  
20 in Ulen?

21 A. Yes.

22 Q. Did you have any employees who  
23 worked for you as part of the original business?

24 A. We had one lady that would come in  
25 part-time and did some meat wrapping and we  
0011 would occasionally have help on Mondays to  
1 slaughter.

2 Q. At the present time do you have  
3 employees?

4 A. Yes.

5 Q. How many?

6 A. Three.

7 Q. I don't know the name. But see if  
8 we can figure it out. As I understand it one of  
9 your employees was involved with some of the  
10 events that we're going to be talking about and  
11 concluding in the meeting with the USDA?

12 A. That's right.

13 Q. Who is that?

14 A. Carl Shaw.

15 Q. I'm sorry?

16 A. Carl Shaw.

17 Q. Shaw?

18 A. He doesn't work for us anymore.

19 Q. What happened to Mr. Shaw?

20 A. He decided to go back to farming.

21 Q. Does he still live in the area?

22 A. Yup.

23 Q. What is his address? Where does he  
24 live?  
25

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1 A. Ulen.

2 Q. Does he live in town or does he live  
3 on a farm?

4 A. Out of town.

5 Q. How about you, do you live in town  
6 or do you live out?

7 A. Out of town.

8 Q. Do you own any property in the  
9 country? I assume you have a house where you  
10 live. Do you have any property beyond that?

11 A. An 80.

12 Q. What do you do with that land?

tbriard

13 A. We rent it out.  
14 Q. So at the present time your business  
15 interests, if you will, will be the farmland you  
16 rent out and the Ulen Locker?  
17 A. That's it, yup.  
18 Q. You have five children I  
19 understand.  
20 A. Yes, I do.  
21 Q. How old are they?  
22 A. Seventeen, 15, 13, 12 and 9.  
23 Q. They're all still at home obviously?  
24 A. Yup.  
25 Q. Your oldest would be finishing high

0013

1 school pretty soon?  
2 A. She will be a senior this fall.  
3 Q. Any of the kids involved with the  
4 business at all?  
5 A. They help but --  
6 Q. The three employees that you have at  
7 the present time, are they full-time, part-time?  
8 A. The three we have are full-time,  
9 yes.  
10 Q. And what are the hours of operation?  
11 A. 8:00 to 6:00 Monday through Friday.  
12 Q. In terms of your clientele, most of  
13 your customers or clients come from the  
14 immediate area?  
15 A. Yes.  
16 Q. Let's go back to the decision or the  
17 thought process that caused you to think you  
18 needed to --  
19 A. Build a new one?  
20 Q. -- build a new one, start over.  
21 A. Okay.  
22 Q. Just in terms of a time line, I  
23 guess my understanding is you had your first  
24 discussions with Mr. Bowlin in late 2002. Does  
25 that sound right to you?

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1 A. We originally started with Chan  
2 Zuger in late 2002 and I believe I started  
3 conversations with Bob in January.  
4 Q. January of '03?  
5 A. Of '03.  
6 Q. Before we get into your discussions  
7 with Chan Zuger --  
8 A. Uh-huh.  
9 Q. -- how did you know him?  
10 A. We contacted the Minnesota Meat  
11 Processor's Association and asked if they knew  
12 of anybody that could help or has ever built  
13 locker plants before and we were given the name.  
14 Q. You were given Chan's name?  
15 A. Yes.  
16 Q. So he was a stranger to you until  
17 you got his name through the Minnesota --  
18 A. That's right.  
19 Q. -- association. This would have  
20 been sometime in late '02 is your best  
21 recollection?  
22 A. September or October something.  
23 Q. The first consultant or the first



tbriard

24 person you went to for information was Chan  
25 Zuger?

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1 A. Yeah.

2 Q. Just tell me in general about those  
3 discussions, what came of them?

4 A. Well, I guess I wasn't in on them  
5 very much. It was between Cameron and Chan. I  
6 think they met twice at our house and just  
7 talked about, Cameron expressed that we were  
8 thinking and would like to build a new locker  
9 and he had brought along plans from other  
10 lockers that he'd been involved in, him and his  
11 dad had built years ago. The Osakis locker  
12 plant was one we looked at the prints quite a  
13 bit, and a few other ones and just discussed how  
14 we'd want to get started with it, I guess.

15 Q. What did you know about Chan's  
16 background?

17 A. Nothing except for what he had told  
18 us and that the meat association, whoever it was  
19 that came and talked to had said they knew he'd  
20 been involved in building lockers.

21 Q. He's not an engineer or architect?

22 A. Not that we are aware of, no.

23 Q. I assume you knew at the time he was  
24 not an engineer or architect?

25 A. Well, I guess I didn't but I wasn't

0016

1 in on that, so --

2 Q. When you first started thinking  
3 about the idea of building a larger facility,  
4 were you initially thinking of building  
5 something out in the country, starting from  
6 scratch?

7 A. Yeah. We had several different  
8 thoughts. If we should put it where our, at  
9 that time our existing locker was on the  
10 property that we own or if we should build it  
11 out in the country by our house and we didn't  
12 really have anything set yet. We were just  
13 talking about where would be a good place.

14 Q. So you were looking for advice on  
15 that, among other things, where a good location  
16 would be?

17 A. Yeah. We hadn't made our decision  
18 where we wanted --

19 Q. I'm sorry, you hadn't?

20 A. At that time we hadn't made our  
21 decision, no.

22 Q. Would it be fair to say that was one  
23 of the things you needed some help with, the  
24 decision where to locate?

25 A. Not necessarily. It would be more

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1 to the size what we needed for a facility first  
2 would make a decision where to go.

3 Q. Let's talk about budget. Did you  
4 have early on, even as early as your discussions  
5 with Mr. Zuger, did you have a number in mind  
6 you felt you could afford to pay for this new  
7 business?

8 A. Yes. Because we had had meetings

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EXHIBIT

2

tbriard

9 with a gentleman from the SBA to work all the  
10 projections and business plans, so we kind of  
11 had an idea of what we felt from our history in  
12 our existing locker where this could go and what  
13 kind of income could be brought in to support  
14 what kind of debt.

15 Q. And who was the gentlemen from the  
16 SBA?

17 A. Jim Soncrant.

18 Q. How does he spell his name?

19 A. S-o-n-c-r-a-n-t I think.

20 Q. Did Jim stay involved with your  
21 project through the end?

22 A. Kind of off and on. He was on the  
23 consultant end.

24 Q. You do have, of course, the ultimate  
25 loan that you got is an SBA loan or SBA  
0018 guarantied loan?

1 A. SBA guarantied loan partially.

2 Q. Was Jim the representative who was  
3 involved with that loan from the beginning to  
4 the end?

5 A. No. He's just the gentlemen that we  
6 started the preliminary paperwork with and then  
7 we were referred on to when we actually made the  
8 application to someone else.

9 Q. Going back to, jumping around a  
10 little bit, going back to the early thinking and  
11 the early discussions when you were first  
12 talking to Jim and trying to figure out how much  
13 debt you could handle, what was the number they  
14 came up with?

15 A. 800,000.

16 Q. And as I understand it, that number  
17 is, at least as you were still working with Bob  
18 or talking to Bob, that number continued to be  
19 your target, your budget?

20 A. Yes.

21 Q. Just to put that in perspective, the  
22 facility that you ultimately built, how much did  
23 that cost?

24 A. It was more than 800,000.

0019 Q. Do you know what the total cost was?

1 A. About a million dollars.

2 Q. And is that an all inclusive  
3 number? Does that include the design fees  
4 and --

5 A. Yes.

6 Q. All of the construction costs?

7 A. Uh-huh.

8 Q. The first involvement that Bob had,  
9 you already touched on that, Chan told you that  
10 he had a brother-in-law, is it not?

11 A. Yes.

12 Q. Who had experience with designing  
13 locker facilities and new processing facilities  
14 and that, of course, was Bob Bowlin, am I  
15 understanding this?

16 A. Uh-huh.

17 Q. Your first contact with Bob was by  
18 phone?

19

tbriard

20 A. Correct.  
21 Q. You already told me that was in  
22 January of 2003 as you remember this?

23 A. Yes.  
24 Q. Were you party to that discussion?  
25 Were you on the phone with Bob?

0020  
1 A. I think I originally answered the  
2 phone and talked to him and found out who he was  
3 and we talked.

4 Q. The first direct discussion you had  
5 with Bob, when did that occur?

6 A. Probably would have been when he  
7 came.

8 Q. And that was in February of '03?  
9 A. I believe so, yes.

10 Q. Do you know how many telephone  
11 conversations Cameron had had with Bob up to  
12 that point?

13 A. No, I don't.

14 Q. When Bob first came to see you in  
15 person in February, what was your understanding  
16 of the role that he would be playing?

17 A. Well, Chan had told us that Bob  
18 should be able to, to help us get this built,  
19 how to get the locker built.

20 Q. Let's see if we can be a little more  
21 precise. Help is a pretty broad term. Did you  
22 understand that he would be involved or could be  
23 involved with the designing side of the process?

24 A. Yes. But there was no specific set  
25 down of what it was he was going to all do at

0021  
1 that point.

2 Q. I assume you understood that Bob was  
3 an engineer from Texas?

4 A. Yes.

5 Q. And obviously had been practicing  
6 engineering for a number of years?

7 A. Yup.

8 Q. And I think you were about to tell  
9 me this. I'll ask you to go there right now.  
10 When you first met with him, did he give you an  
11 introduction, did he explain what his background  
12 was and what his experience was?

13 A. Yeah. He said he was an engineer in  
14 Texas and that he had built meat plants before  
15 and he brought pictures of where he had been  
16 last at the Muenster, Texas plant.

17 Q. Is that, any of that information  
18 that you now suspect, in other words, do you  
19 think he was accurate in his description of his  
20 experience?

21 A. Well, that locker got built, yes.

22 Q. And you were present today, I think  
23 his testimony today was he's been involved with  
24 perhaps 12 to 15 meat locker or facilities over  
25 the years?

0022  
1 A. That's what I heard him say.

2 Q. You have no reason to question that?

3 A. No.

4 Q. When this first meeting in February,

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EXHIBIT 3

tbriard

5 the first face-to-face meeting, you and Cameron  
6 and Bob, is that right?

7 A. And Chan.

8 Q. And Chan. Was it a one-time event?  
9 In other words, did you just get together once  
10 and talk or did you meet several times over a  
11 period of several days?

12 A. Just once.

13 Q. Where did you meet?

14 A. At our locker. At our old locker  
15 that is no longer.

16 Q. And how long did the meeting last?

17 A. A few hours.

18 Q. And just tell me in your own words  
19 what you, based on that initial discussion what  
20 was the role that you thought Bob was going to  
21 be playing?

22 A. Just that he was going to help us do  
23 whatever needed to be done, be engineer and see  
24 that the locker got built and he offered to go  
25 along to the bank and help out with financing

0023

1 and, he told us he had done that with the people  
2 that he worked with in Muenster, that he had  
3 gone to the bank and that and helped with their  
4 financing and he offered to do the same for us.

5 Q. Did you guys talk about your budget  
6 at this initial meeting?

7 A. I don't remember.

8 Q. Well, let's stick with what you do  
9 remember. I'm assuming that in February you  
10 indicated to Bob that that sounded good and you  
11 would like him to assist you in those  
12 capacities?

13 A. Yeah. Yes, I would.

14 Q. What discussion was there about  
15 money or about compensation?

16 A. I believe Cameron asked him, you  
17 know, what this is going to cost and he never  
18 really answered that. And pretty much I don't  
19 know if I was in on a lot of that.

20 Q. You certainly understood that Bob  
21 expected to be paid for those, of his services?  
22 Do you remember any discussion to the effect he  
23 would be willing to wait because he knew, until  
24 you had financing available, that you had no  
25 means of paying him, that he would be willing to

0024

1 wait, get paid at some later date?

2 A. I wasn't in on any of that.

3 Q. Now at the time that you met with  
4 Bob, the only other consultants or contact that  
5 you had discussed this project with was Chan, am  
6 I right?

7 A. Yes.

8 Q. Does Chan sort of leave the picture  
9 at that point in time?

10 A. Yup.

11 Q. And we know, of course, that you  
12 continued, you and Cameron continued to work  
13 with Bob until sometime well into the next year?

14 A. Yes.

15 Q. During that period of time, at least

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tbriard

16 from February of '03 to, let's say, February of  
 17 '04 was Bob the only person that you were  
 18 working with from a design standpoint or from  
 19 the construction standpoint?  
 20 A. No.  
 21 Q. During the course of that time or  
 22 over the course of that time, Bob made many  
 23 trips up to Minnesota to view locations and  
 24 facilities?  
 25 A. Yes.

0025  
 1 Q. And he was doing a lot of work on  
 2 layouts or floor plans, correct?  
 3 A. Yes.  
 4 Q. And he was sharing that information  
 5 with you?  
 6 A. Yes.  
 7 Q. And the three of you were  
 8 discussing, this is a two way street, the client  
 9 talks to the designer about what they want and  
 10 then you blamed everything, as I understand it,  
 11 there were a number of changes that were made to  
 12 the layout over time?  
 13 A. Yes.  
 14 Q. Maybe as many as five or six  
 15 changes?  
 16 A. Could have been, yes.  
 17 Q. And you explored the possibility of  
 18 a free standing facility built from scratch.  
 19 This was one of the things talked about or not  
 20 and the focus then shifted to the idea of  
 21 building an addition to an existing building in  
 22 Ulen?  
 23 A. Yes.  
 24 Q. And, of course, that's what you did?  
 25 A. Yes.

0026  
 1 Q. All of that took a lot of time and  
 2 involved a lot of Bob's time helping to analyze  
 3 all those options?  
 4 A. Yeah. I'm sure it took some time.  
 5 Q. And you're aware of the fact in  
 6 addition to the time of coming up here and  
 7 meeting with you and doing things in the flesh,  
 8 so to speak, he was doing a lot of work down in  
 9 Texas?  
 10 A. Yes.  
 11 Q. And you also were part of that work,  
 12 see that the plans and the estimates were  
 13 prepared?  
 14 A. Yes.  
 15 Q. Now when you were working with Bob  
 16 during this period of time, I understand that  
 17 getting the project down to your number was one  
 18 of the major goals, one of the major  
 19 challenges?  
 20 A. Right.  
 21 Q. And the initial estimations that  
 22 were prepared came in higher than that?  
 23 A. Right.  
 24 Q. And you said no, we just do, we need  
 25 the 6 to 800. In fact, I remember seeing a

0027

tbriard

1 letter to that effect.

2 A. Yes.

3 Q. So Bob went back to the drawing  
4 board, to so speak, and gave thought what could  
5 be done to reduce the costs and was able to get  
6 the budget to come down, you remember that?

7 A. Yes.

8 Q. As I understand it, as part of this  
9 process, there was also a lot of thinking about  
10 the construction, whether you would act as  
11 general contractor or hire a general contractor?

12 A. Yes.

13 Q. Was that something you also talked  
14 to Bob about?

15 A. Right. There was, there was  
16 conversation at one point where Cameron and I  
17 were trying to get to the bottom how this is  
18 going to work and how this is going to be run.  
19 At that point Bob had suggested that he would  
20 be, as he said earlier in his deposition, that  
21 he would be also in on the bill paying process  
22 and he was going to see to it that the  
23 subcontractors and that were here at the time  
24 and so we were kind of sharing the  
25 responsibility as the general.

0028

1 Q. I'm going to jump ahead for just a  
2 minute. The project that was ultimately  
3 built --

4 A. Uh-huh.

5 Q. -- how was that handled from a  
6 construction standpoint? Did you hire a general  
7 contractor?

8 A. We were.

9 Q. You were the general?

10 A. Yeah.

11 Q. Let me cut to the chase here for a  
12 minute. The falling out that you had with Bob,  
13 or the things that caused you to decide to go a  
14 different direction --

15 A. Uh-huh.

16 Q. -- tell me in your own words what it  
17 was that prompted you and Cameron to do that.

18 A. Well, when, probably starting back  
19 in December. Been a while so I have to remember  
20 the years and this and that. Came to our house  
21 and was going to, we were talking over the  
22 drawings and I left to go to a concert with our  
23 children and when I returned they were still  
24 working on it and at that time we had been  
25 already in November given the okay that we had

0029

1 obtained the financing.

2 I guess I have to back up a little  
3 bit. At that point when we were let know that  
4 we had the finances, we called Bob in November  
5 and we told him that we had the go ahead with  
6 the money. We would like to get things going.  
7 We discussed at that time if we should go ahead  
8 and start building right then in November and  
9 the decision was made, mainly by us, to wait  
10 until spring because it would have right off the  
11 bat cost us more money to buy concrete because

tbriard

12 it would be able to have additives in it in the  
13 winter months. What we did not know was we  
14 didn't have, we didn't have the proper prints to  
15 be able to even get started. We at this point  
16 figured that whatever it was that Bob was  
17 drawing due to the fact that he had already met  
18 with contractors, it was going to be okay to get  
19 started with the project. We did not know at  
20 that point it wasn't, it wasn't ready to go yet  
21 as far as his end was concerned. We decided to  
22 wait.

23 Then in December came, like I  
24 stated, they went over things, Cameron and Bob,  
25 and he told us he would have things ready in

0030 1 January and before, of course, any funds could  
2 be released we had to sign this sworn  
3 construction statement with all of the bids or  
4 estimates and whatever nailed down and give to  
5 the bank.

6 And January came and we called and  
7 he wasn't ready yet. So we told him we had  
8 planned to take a family vacation with our  
9 children and call him when we get back. So we  
10 called when we got back. He still wasn't ready  
11 yet.

12 In the meantime he had a death in  
13 the family so we figured that was necessary and  
14 we had to wait on that. A week or two later we  
15 called again to see if at that point he was  
16 ready. He had plane tickets bought then to come  
17 in February, either the 12th or 13th of February  
18 so we were okay. This is good. We are going to  
19 get closer. Let's get him going and get a  
20 building. So then a week or so after that then  
21 he called and said well, he thought he was going  
22 to be driving up the 5th or the 6th. Every time  
23 that we wanted to get on with it and let's get  
24 the project away and there was always, no, he  
25 wasn't ready. He didn't have all of the bids in

0031 1 place. He didn't have what we needed to be able  
2 to get going, to get on with the paper work, to  
3 get things started.

4 So then we ended up he did come, I  
5 believe it was Friday the 13th, in February, and  
6 had a meeting with the subcontractors and myself  
7 and my husband. And at that point he was  
8 working on getting bids off of the drawings and  
9 still didn't have everything nailed down as he  
10 was supposed to have. Previous to that we had  
11 costing sheets and supposed to have everything  
12 there and now we are still yet trying to figure  
13 out what it's all going to cost.

14 So at the end of this meeting, he  
15 was going to meet with Dale. We find out that  
16 didn't pan out because still didn't have the  
17 necessary materials to go meet with Dale. We  
18 weren't even aware of this meeting until  
19 following the meeting that he had with the  
20 subcontractors.

21 A few days after that the following  
22 week he was to take these drawings to USDA

tbriard

23 inspectors to look at them and see if they'd be  
24 acceptable.

25 In the meantime our plumber at that  
0032

1 point pretty much backed out. The plumber said  
2 we have to have the mechanical drawing for the  
3 plumbing. The plumbing drawing has to be sent  
4 in. It was my understanding that was going to  
5 happen prior to the plumber asking for it to  
6 happen. Bob didn't think that was necessary to  
7 be done. When he went to the USDA inspectors,  
8 after that meeting one of the inspectors called  
9 up and told him well, he basically told Cameron  
10 if you want this locker built, this isn't the  
11 gentleman you need to be going with.

12 After they looked through all the  
13 material, the packaging room was in the wrong  
14 place. That wasn't the only thing. There was  
15 drains that needed to be, according to Bob's  
16 drawings, they were supposed to take a squeegee  
17 and squeegee all the water from one side of the  
18 locker room to the other side of the locker room  
19 where they should have been drawn. He had  
20 everything crossing from the slaughter room  
21 through the packaging room, which is the most  
22 important room in the whole locker. That's your  
23 actually cooked, ready to eat room. It's  
24 basically quarantined from the rest of the  
25 plant. Everybody was supposed walk in right

0033  
1 through there, even walk from the processing  
2 room to the freezer area. That was not  
3 allowable.

4 After that meeting then we waited a  
5 few hours after we had contact with the  
6 inspectors and then I myself called Bob and I  
7 asked him how it went and he said, "good, went  
8 really good," and I said, "was there anything  
9 that needed to be changed or anything?" "No,"  
10 he said, "except we have to put another entrance  
11 in the back for the employees." He didn't tell  
12 us about this, what the inspector didn't like  
13 until the following, a day or two later when he  
14 came up and we had Carl up.

15 Carl also had came back and told us  
16 what had been said and we told him we understand  
17 that we can't have the packaging room in the  
18 middle of this place. Then he kind of shrugged  
19 it off and, yeah, yeah, I suppose we can change  
20 that. And all three of the guys, Carl and Jim  
21 and he talked, drew things out on the floor and  
22 tried to make sense out of it even after that.

23 Then Bob went back to Texas and  
24 within a few days we got ahold of this gentleman  
25 who ended up to be our contractor and he came up

0034  
1 with and discussed the project with us and told  
2 Bob we weren't interested in any more services  
3 from him.

4 Q. Okay. The USDA inspector who called  
5 you, who was that?

6 A. Scott Cooper.

7 Q. Who is Scott Cooper?



tbriard  
8 A. USDA inspector at the Pelican Rapids  
9 plant.

10 Q. Doctor Ranae Larson the only name I  
11 heard until Scott was mentioned.

12 A. She's in charge of the district but  
13 Scott Cooper is an inspector, too. Both of them  
14 were there at that meeting.

15 Q. I understand that the meeting with  
16 the USDA in Pelican Rapids involved Scott  
17 Cooper, Ranae Larson, Carl?

18 A. And Bob.

19 Q. You and Cameron were not there?

20 A. No.

21 Q. Your recollection is that Scott  
22 Cooper called you after the meeting?

23 A. Yes.

24 Q. Did he talk to you or talk to  
25 Cameron?

0035 A. He talked to Cameron.

1 Q. Now you mentioned that in late 2003  
2 you made the decision, Cameron made the decision  
3 to not start construction until the following  
4 spring, correct?

5 A. From November, yes, when we had  
6 gotten, received, no, that we had gotten the  
7 financing.

8 Q. Because you realized that it would  
9 be less expensive to build in the spring and  
10 summer months than in the winter months?

11 A. Yes.

12 Q. So at that point in time what were  
13 you targeting as the commencement date for the  
14 actual work?

15 A. February, March. It was earlier  
16 than I expected frankly. Still pretty wintery  
17 around here. We had an existing bidding to gut  
18 out so there was prework to be done that could  
19 be done before that.

20 Q. Oh, okay. As things actually  
21 evolved, when did you start construction?

22 A. May. April, May.

23 Q. Let me back up in time. In the  
24 summer of 2003 or thereabouts, in 2003 did you  
25

0036 have a discussion with Bob to the effect that he  
1 was going to be just holding tight, wasn't going  
2 to do any work until you got more money into  
3 this project, until financing was firmed up?

4 A. I did not but my husband might.

5 Q. Do you know anything about that?

6 A. Yeah. I guess I don't remember  
7 that.

8 Q. Do you remember a period of time  
9 extending over many months, mid to late 2003  
10 where nothing was going on because you were  
11 waiting for the bank?

12 A. Things went on for a long time, I  
13 remember that.

14 Q. And I'm assuming because things were  
15 dragging on for a long time that that was  
16 annoying?

17 A. Uh-huh.  
18

tbriard

19 Q. And trying to figure out why.  
20 what's your recollection of what you figured  
21 out, why was it dragging on?  
22 A. You know, we were very busy at our  
23 facility and with the family at that time and I  
24 guess I don't have an answer for you.  
25 Q. Let's talk about the bank approval

0037

1 that you got in November.

2 A. Uh-huh.

3 Q. What was that? First of all, what  
4 bank are we talking about?

5 A. The Northwestern Bank.

6 Q. That's the bank you were dealing  
7 with from the beginning?

8 A. Correct.

9 Q. The approval that they gave you in  
10 November, how much money did they commit to at  
11 that point?

12 A. We got SBA approval for a part of  
13 the loan and then the bank agreed that as long  
14 as we had the SBA, as long as we had the SBA  
15 approval on their part that they would do the  
16 other part to get the locker built.

17 Q. And what were the contingencies? I  
18 don't know if contingencies is the right word  
19 but it's the one that comes to mind. Any  
20 strings attached to that loan you got in  
21 November?

22 A. We had to put money of our own and  
23 that was it.

24 Q. What was the loan commitment based  
25 on from a design standpoint or a cost estimating

0038

1 standpoint?

2 A. I'm the wrong one to ask that.

3 Q. If I'm understanding what you're  
4 saying, up through that point in time the only  
5 professional you were working with was Bob?

6 A. Yes.

7 Q. So to the extent that the bank  
8 needed plans or cost estimates, it might have  
9 been coming from Bob?

10 A. Yes.

11 Q. Couldn't have been anyone else,  
12 right?

13 A. Nope.

14 Q. When you called Bob after the  
15 meeting with the USDA to tell him that you  
16 didn't want to do anything more, did you make  
17 that call or did Cameron?

18 A. Cameron did.

19 Q. Were you listening? Did you hear  
20 part of that conversation?

21 A. I was in the building, yeah.

22 Q. What do you remember hearing Cameron  
23 say?

24 A. Just that we were going to talk to  
25 other contractors about getting it built and we

0039

1 didn't think we needed to have any further  
2 contact with him.

3 Q. Do you remember hearing Cameron

4 saying something to the effect that he would  
5 treat Bob fairly? tbriard

6 A. I guess I don't remember that, no.

7 Q. Now, since this conversation that  
8 Cameron had, and the way you described it was a  
9 very short conversation, that was shortly after  
10 the USDA, the meeting with the USDA?

11 A. Yes.

12 Q. And I gather from what you've said  
13 that you -- let me assume nothing and ask you.  
14 Did you ever give Bob an opportunity at that  
15 point in time to explain the situation and to  
16 try to continue to work through it rather than  
17 go a different direction?

18 A. No. By this point we were pretty  
19 frustrated because we had been asking for what  
20 is this going to cost because he had told us  
21 that that was his job. His job was to deal with  
22 all the subcontractors and he was going to take  
23 care of the bids and he was going to get all  
24 that stuff for us. That was his job. We were  
25 just supposed to keep working in our old locker

0040  
1 and he was going to take over and do that  
2 stuff. And when we'd ask him for it, he never  
3 would have it ready or he didn't have it all put  
4 together, it wasn't quite ready yet. When we  
5 would finally get something, a fax or whatever  
6 with the cost projections, it was always high  
7 for what we were going to be able to do. And so  
8 when things needed to be cut back or whatever,  
9 he'd tell us, well, we couldn't have this piece  
10 of equipment because we couldn't afford it or  
11 there was always some reason. The reason it's  
12 taking us so long is because we had changed our  
13 mind or wanted to do something different or  
14 whatnot. There was always some other reason  
15 rather than giving us the information we asked  
16 to find out. So when we were told this from the  
17 USDA inspector that, you know, there is some  
18 things that had to be changed and we were pretty  
19 frustrated at this point, that we weren't able  
20 to work with him very well. It seems like the  
21 things we wanted to get done we couldn't have  
22 and we were the ones that were supposed to be  
23 building this locker. So we just pretty much  
24 said thank you but no thanks. I just wanted to  
25 be done with this.

0041  
1 Q. I assume you understood over the  
2 course of Bob's involvement he did have many  
3 discussions with various contractors or  
4 subcontractors about your project?

5 A. Yes.

6 Q. And he did get estimates or in some  
7 cases firm bids from many of those entities?

8 A. Yes.

9 Q. Let's just continue to talk about  
10 that. The people that were involved with the  
11 actual construction, can you tell me who the  
12 various contractors were or various  
13 subcontractors?

14 A. We started out with Cameron's  
Page 17

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tbriard

15 brother Hunter who's a contractor, a house  
 16 builder who Bob had told us a house builder can  
 17 do this job. As long as he can read the little  
 18 numbers on a ruler, he should be able to do  
 19 this. So he was involved. And Dayik --  
 20 Q. Spell that for the reporter.  
 21 A. D-a-y-i-k.  
 22 Q. D-a-y-i-k?  
 23 A. Yes.  
 24 Q. Before we go any further, I want to  
 25 make sure we are both on the same page. I'm  
 0042  
 1 asking you about people who were involved with  
 2 the actual construction. Is that what you're  
 3 telling me?  
 4 A. Oh, no. This is -- no.  
 5 Q. I want to know who the actual  
 6 builders were.  
 7 A. Harry Kramer.  
 8 Q. With a K?  
 9 A. Yes. He's from Melrose.  
 10 Q. What was his role?  
 11 A. He's the owner of the construction  
 12 company that did pretty much everything. His  
 13 fellows came in and did the rework, did the  
 14 cement work, did the block work, built the  
 15 coolers and freezers and everything inside.  
 16 Constructed the rail system.  
 17 Q. So he had the design construction  
 18 contract?  
 19 A. Yes.  
 20 Q. He was not a general contractor?  
 21 A. No.  
 22 Q. Who else was involved?  
 23 A. Our plumber was Hank's Heating in  
 24 Detroit lakes. Our electrician Joel Nyseivold.  
 25 Q. Better spell that one.  
 0043  
 1 A. N-y-s-e-i-v-o-l-d from Twin Valley.  
 2 Our refrigeration was done by Dakota  
 3 Refrigeration here in Fargo.  
 4 Q. Okay.  
 5 A. I will think of who else. Any more  
 6 would be in our notes, whatever.  
 7 Q. How about the equipment, machinery  
 8 and equipment, where did you buy that?  
 9 A. Most everything was bought from Koch  
 10 Equipment.  
 11 Q. K-o-c-h?  
 12 A. Yes.  
 13 Q. Where are they?  
 14 A. Kansas City, Missouri.  
 15 Q. Going back to the time frame after  
 16 meeting with the USDA, I think you mentioned  
 17 that you contacted another contractor or got  
 18 someone else involved at that point.  
 19 A. Yes.  
 20 Q. Who was that?  
 21 A. Harry Kramer.  
 22 Q. How did you get hooked up with Mr.  
 23 Kramer?  
 24 A. Through Scott, Scott Cooper, the  
 25 inspector.

0044

1 Q. So Scott Cooper, this USDA employee,  
2 as you understand it, called and said basically  
3 two things, you have got the wrong engineer  
4 helping you now and you need to change horses?

5 A. Yes.

6 Q. Then he recommended Harry Kramer?

7 A. Yes. Because he worked specifically  
8 with USDA plants. He's done a lot of the  
9 building and any kind of rework with Jennie-O,  
10 the turkey plant in Pelican Rapids. He worked  
11 all over the United States. He worked closely  
12 with the inspectors and knows what the  
13 regulations are and what codes are, what needs  
14 to be done.

15 Q. In terms of the codes, is it your  
16 understanding that the codes or the laws require  
17 that the USDA approves plans for a meat plant?

18 A. Bob had told us that at one of the  
19 initial meetings years ago that's how it used to  
20 be. They drew up the drawings and sent them in  
21 for approval. They don't do that any longer.  
22 That changed -- maybe longer than two years, I'm  
23 not exactly sure. But it was a good idea to go  
24 meet with your local USDA inspectors and just  
25 have them take a look at the drawings and make

0045

1 sure that kind of get their blessing was I guess  
2 how they put it. Not that they would approve it  
3 but that they would, if they were getting  
4 suggestions or anything to be made, that that  
5 was the time to do it on paper before you built  
6 it.

7 Q. And today do you have any reason for  
8 thinking of Bob's description on how that works  
9 was wrong?

10 A. No.

11 Q. When you first met with Kramer,  
12 first of all, when did you meet with him? Would  
13 that have still been in February?

14 A. Yes.

15 Q. Did he come out to see you? Did he  
16 come to Ulen?

17 A. We called him and asked him and told  
18 him about what our plans were, what we had been  
19 trying to do, and asked him if he would have  
20 time to meet with us and take a look at it and  
21 see if he would be interested in the project.

22 Q. Obviously the answer was yes?

23 A. Uh-huh.

24 Q. Did he personally come to Ulen?  
25 when was that?

0046

1 A. Would have been, it was in  
2 February. I can't give you the exact date  
3 without a calendar.

4 Q. Did you take him over to the  
5 building you expected to be adding on to?

6 A. Yes, he did.

7 Q. Did you show him the layout that Bob  
8 had prepared?

9 A. Yes, he did.

10 Q. Did you take copies with you?

tbriard

11 A. No.

12 Q. Why not?

13 A. Well, he just told us that he  
14 thought he might have time to do the project and  
15 if we were serious that we should come, that my  
16 husband should come and have a meeting with him  
17 in his office, that at that time he said that  
18 the prints that we had weren't run off. And we  
19 had to have actual architect, engineer drawings  
20 and we at this point didn't know that.

21 Q. Did you, before you called Bob up  
22 and said we're not talking to you anymore, did  
23 you know that he associated himself with an  
24 engineering firm and an architectural firm in  
25 Minnesota to prepare the final working drawings?

0047

1 A. No. No, I didn't know.

2 Q. You had never given him an  
3 opportunity to explain that to you?

4 A. It was my understanding that what he  
5 was doing was it. What he would be providing  
6 for us would be what we needed to build this  
7 building.

8 Q. But I thought you understood the  
9 reason for the meeting with the USDA was to have  
10 them look at the layout before things were  
11 finalized before a lot of money was spent?

12 A. Yup. But whatever drawings were  
13 necessary it was my understanding that Bob would  
14 be providing that.

15 Q. Okay. But before he could provide  
16 that, you called him and told him not to do any  
17 more work.

18 A. Yeah. Yeah. What he took to the  
19 USDA from my understanding was who was going to  
20 be used to provide so --

21 Q. And what was that understanding  
22 based on?

23 A. That's what he brought and showed  
24 us. Some that had stated rework plan and  
25 whatnot and my understanding that was the

0048

1 blueprints that we would be using to build  
2 something.

3 Q. Okay. Let's, I'm jumping around, I  
4 guess that's inevitable in this process. The  
5 discussions and the relationship that involves  
6 with Mr. Kramer and his company, your husband  
7 did go to Melrose to meet with him at some  
8 point?

9 A. Yup.

10 Q. And you were not there?

11 A. Nope.

12 Q. At some point, not sure what the  
13 name, engineering firm from St. Paul, Buetow,  
14 B-u-e-t-o-w, and Associates?

15 A. Yup.

16 Q. Becomes involved in -- was this a  
17 firm that was recommended to you by Kramer?

18 A. Yes, it was.

19 Q. Did Buetow and Associates have the  
20 benefit of Bob's drawings?

21 A. Explain that, please.

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EXHIBIT 3

tbriard

22 Q. Let me simplify. Did you ever, you  
23 had copies of Bob's layouts or Bob's drawings?

24 A. Yes.

25 Q. And you still had those when you

0049 1 called him and said you didn't want to do it  
2 anymore?

3 A. Right.

4 Q. From that point on did you share  
5 Bob's drawings with either Kramer or Buetow?

6 A. Yeah. They looked at them.

7 Q. And did they take copies?

8 A. No.

9 Q. Did you give them copies?

10 A. Yeah. I believe they, when Cameron  
11 went to Melrose, then they looked at them and  
12 honestly I don't know if they took copies of  
13 them or not from there.

14 Q. I'm holding the, I suppose people  
15 would refer to these as blueprints. The plans  
16 prepared by Buetow.

17 A. Yes.

18 Q. And I don't know if you can tell me  
19 but I'll ask you anyway. Are these the final  
20 plans?

21 A. Yup.

22 Q. And was the facility built just the  
23 way it shows up on paper?

24 A. Yes.

25 Q. And are these the only, at least to

0050 1 your knowledge are these the only design  
2 documents or blueprints that Buetow prepared?

3 A. There is more copies of this.

4 Q. I understand. There would be copies  
5 of these four sheets?

6 A. Yes.

7 Q. These four sheets are all that you  
8 have ever gotten?

9 A. Yes.

10 Q. Do you know what written  
11 specifications are?

12 A. Is that what's on it?

13 Q. Okay. Okay. So there were not any  
14 additional specifications spelled out in some  
15 other document, everything was right here on  
16 these four sheets?

17 A. Cameron, Harry and Jim worked  
18 together and if there is more than that, I'm not  
19 sure, but this I know there may.

20 Q. So as far as you know what I'm  
21 holding is the sum total of the project prepared  
22 by Buetow?

23 A. Yes.

24 Q. Do you know what number that is?

25 A. I don't know that number but it is

0051 1 in the paperwork.

2 Q. What's it cost for this? I'm not  
3 going to hold you to it.

4 A. About \$30,000.

5 Q. Just for the architectural work?

6 A. That's right.

tbriard

7 Q. Conceptually what's your  
8 understanding of the differences between the  
9 layout that Bob was working with in February  
10 compared to the facility that was ultimately  
11 built?

12 A. I really wasn't in on much of the  
13 layout business in either place. I only know  
14 how it ended up. I do know that most of their  
15 concepts were Cameron's. He knew from running a  
16 locker plant for 13 years what he wanted.

17 Q. Well, you said at one point when you  
18 were working with, would be, there would be  
19 times when he would tell you you couldn't as far  
20 as something --

21 A. Uh-huh.

22 Q. The plant that was ultimately built,  
23 does it contain any of the things that Bob said  
24 you couldn't afford to build?

25 A. Lots of them.

0052 Q. Like what?

1 A. Equipmentwise we had all the  
2 equipment we wanted to have. There was  
3 discussion that we wouldn't be able to have a  
4 stuffer, a vacuum stuffer, that we couldn't  
5 afford one. We had a vacuum stuffer. We have  
6 two vacuum pack machines and we have the things  
7 that we originally figured we needed.

8 Q. And I assume that accounts for at  
9 least a lot of the differences between the  
10 \$800,000 number you were working on originally  
11 and the amount of money you spent?

12 A. Not necessarily. We got a lot more  
13 for our money than we would have gotten if we  
14 stuck with Bob. It's a little bit hard to  
15 explain. If you go down the cost sheet and you  
16 guys have them, I guess it's just, it's hard for  
17 me.

18 Q. Would Cameron be in a better  
19 position to do that?

20 A. My nerves are getting the best of me  
21 so --

22 Q. I don't know that I have that many  
23 more questions for you. You want to take a  
24 break?

0053 A. Could I please?

1 MR. CORWIN: I think at this point  
2 I'm going to do what you did and just until  
3 we've had a chance to look at the documents, I  
4 might have some more questions, Trudy, but at  
5 this point I'm done with you.

6 (This deposition was concluded at  
7 1:55 p.m.)  
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NOTARY REPORTER'S CERTIFICATE

STATE OF NORTH DAKOTA  
COUNTY OF CASS

I, Douglas T. Ketcham, a Notary Public within and for the County of Cass and State of North Dakota do hereby certify: That prior to being examined the afore-named witness was by me sworn to testify the truth, the whole truth, and nothing but the truth.

That said deposition, consisting of fifty-three (53) pages of typewritten materials, was taken down by me in Stenotype at the time and place therein named, and was thereafter reduced to typewriting under my direction.

I further certify that I am neither related to any of the parties or counsel nor interested in this matter directly or indirectly.

WITNESS my hand and seal this 22nd day of September, 2005.

Douglas T. Ketcham  
Notary Public  
Fargo, North Dakota

My commission expires June 27, 2008.



cbriard

0001

STATE OF MINNESOTA IN DISTRICT COURT  
COUNTY OF CLAY SEVENTH JUDICIAL DISTRICT

Case Type: Other Civil

Bowlin Engineering Co.,  
Plaintiff,

vs.

Cameron Briard and Trudy Briard, d/b/a  
Ulen Locker; Northwestern Bank, N.A.; and  
West Central Initiative; and United States  
of America, acting through the Small  
Business Administration,  
Defendants.

D E P O S I T I O N  
of  
CAMERON BRIARD  
July 21, 2005  
9:30 o'clock A.M.

Taken at: Stefanson Law Firm  
Third Floor U.S. Bank Building  
403 Center Avenue  
Moorhead, Minnesota

REPORTER: DOUGLAS T. KETCHAM

(PURSUANT TO NOTICE)

0002

A P P E A R A N C E S

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COUNSEL FOR DEFENDANTS

ALSO PRESENT: Trudy Briard  
Dale Hetland  
Robert Bowlin

cbriard

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0003

I N D E X

WITNESS

PAGE NO.

Cameron Briard

Examination -- by Mr. Corwin

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WHEREUPON:

0004

The following proceedings were had to-wit:

CAMERON BRIARD, a Defendant, called  
by the Plaintiff, being first duly sworn,  
testified on his oath as follows:

BY MR. CORWIN

EXAMINATION

Q. Good afternoon. I already got the  
answers to a lot of questions I had but I do  
want to get your recollections and perspectives,  
obviously. Same request you have had here  
before. If I'm not making any sense, let me  
know. When it's your turn to talk, please do so  
rather than nod your head.

What is your name?

A. Cameron Briard.

Q. Okay if I call you Cameron?

A. That's fine.

Q. Let's start at the very beginning.

When and where were you born?

A. Arlington, Minnesota, July 6th of

'66.

Q. What is your educational background?

A. I quit school after ninth grade.

Q. What did you do at that time?

A. Farmed for a few months and then got

a job.

0005

Q. I have already heard from your wife  
that you have been involved with the meat, I'm  
not sure I'm using the right term, the locker  
business, the meat processing business. What do  
you call it?

EXHIBIT 4

cbriard

6 A. Yeah. Meat processing business, I  
7 suppose.

8 Q. Is it 13 years you have been doing  
9 that?

10 A. I don't know. '92.

11 Q. '92. That sounds like 13 years.

12 A. Spring of '92.

13 Q. Okay. Before you start, well, from  
14 the spring of '92 until the present, has that  
15 been you're only job?

16 A. Only.

17 Q. And the only other business you have  
18 had during that period of time is farmland the  
19 two of you talked about?

20 A. That's not a business, we just get a  
21 rent check every year.

22 Q. What did you do between finishing  
23 school and farming for a few years in 1992?

24 A. Let's see, I worked at a feeder pig  
25 sales barn for a few months until they went

0006 belly up, then I bought myself a two ton truck  
2 and bought and sold feeder pigs for about three  
3 years.

4 Q. That takes us to 1992.

5 A. In the meantime I got married and  
6 then I, ultimate goal was to farm but we could  
7 never afford it so we rented a farm for a while  
8 and then this locker business I got into because  
9 we couldn't afford to farm. It's true.

10 Q. The original locker business that  
11 you operated, and I don't know if I asked Trudy  
12 what the name of that business was.

13 A. Ulen Locker.

14 Q. You kept the same name throughout?

15 A. Yes.

16 Q. Incidentally, is that a corporation?

17 A. No. Sole proprietor.

18 Q. Just the name you just --

19 A. Right.

20 Q. Don't have any formal business  
21 entity?

22 A. No.

23 Q. Do you have an accountant?

24 A. Accountant?

25 Q. Yes.

0007 1 A. Trudy does most of it. Accountant,  
2 Doug Franke. I don't know if he would be an  
3 accountant.

4 Q. Who does your tax returns?

5 A. We hire it done. Doug Franke.

6 Q. Does Mr. Franke do anything for you  
7 beyond tax returns?

8 A. He advises Trudy on payroll taxes  
9 and compensation, insurance and stuff like  
10 that.

11 Q. Did he help you in any way with the  
12 analysis that went into the new business that  
13 you now are operating?

14 A. No.

15 Q. So financial projections and for  
16 costs he didn't?

cbriard

17 A. No. Jim Soncrant helped us with  
18 that.

19 Q. The SBA fellow?

20 A. He's independent. He works for the  
21 University of Minnesota, I think, Moorhead. He  
22 writes up projections and that projection, that  
23 800,000 that originated from Jim Soncrant, not  
24 from Bob.

25 Q. But am I correct in understanding  
0008

1 that the projections that Jim Soncrant did  
2 initially basically indicated that \$800,000 was  
3 about as much as you could spend and hoped to  
4 make the business work?

5 A. Right.

6 Q. And when you were working with Bob  
7 from start to finish sticking within that budget  
8 was very much your goal?

9 A. Bob, we asked him to start out, we  
10 asked him what we wanted was going to cost and  
11 he would not do that. He wanted to find out how  
12 much money we had first and he was going to  
13 match the project to the money we had, just like  
14 a used car salesman, and that was a lot of  
15 problem. It took forever. Because I would have  
16 given him a figure he would have made the  
17 facility fit that figure.

18 Q. I'm confused. Are you saying you  
19 never told Bob what your budget was?

20 A. We told, that summer when we had  
21 that long delay, whatever it was, we were in a  
22 bad spot because we couldn't come up with --  
23 Bob wanted a figure and the bank wanted a  
24 figure, if you can visualize that. The bank was  
25 asking for a figure and Bob was asking for a

0009  
1 figure and we got kind of made a fool of.

2 Q. Well, but I've got to back up.

3 A. Okay.

4 Q. Getting pretty far ahead already.  
5 The decision, some of these same questions I  
6 asked your wife, the decision to expand your  
7 business to go from the custom locker plant to  
8 the business that you now have, what was the  
9 first, what were the first things that caused  
10 you to think along those lines?

11 A. Our place was shot.

12 Q. Just used up and worn out?

13 A. Yup.

14 Q. So you recognized that you either  
15 had to build a new place or go into some other  
16 business?

17 A. Correct.

18 Q. And the first person you talked to,  
19 as I understand it, is Bob in terms of  
20 consultants or experts?

21 A. Well, first it was --

22 Q. I'm sorry, not Bob.

23 A. Chan.

24 Q. Even before that the guy from SBA.

25 A. Oh, yeah.

0010  
1 Q. I'm sorry, what was the name?

cbriard

2 A. Jim Soncrant.

3 Q. Is Jim, did you talk to Jim before  
4 you talked to Chan?

5 A. No.

6 Q. Well, you did talk to Chan in late  
7 2002?

8 A. Could be. I don't remember dates.

9 Q. He hooked you up with Bob?

10 A. Yup.

11 Q. There has already been discussion  
12 about a telephone conversation in January of  
13 2003, I understand it was between you and Bob,  
14 you remember that call?

15 A. Uh-huh.

16 Q. Tell me about that.

17 A. He called me those first few months  
18 and said he's the man for the job, I don't  
19 remember that conversation too much, and I was  
20 pleased to have found somebody that could help  
21 us.

22 Q. And let's kind of join a couple of  
23 these discussions. He came up in February to  
24 meet with you and Trudy?

25 A. Okay.

0011

1 Q. That's true, is it not?

2 A. Right.

3 Q. And there was more discussion along  
4 the same lines when the three of you sat down  
5 face to face?

6 A. Yes.

7 Q. And Bob told you about his, at least  
8 something about his background and experience?

9 A. Yes.

10 Q. Told you that he had worked with the  
11 design of other locker plants?

12 A. Yes.

13 Q. And indicated that those locker  
14 plants were doing well?

15 A. There is only one that was doing  
16 well.

17 Q. Which one was that?

18 A. The Fisher, the one he bragged about  
19 so much.

20 Q. You understand at the time, I'm  
21 assuming, that Bob was an engineering and lived  
22 down in Texas?

23 A. I assumed he was an engineer.

24 Q. And still do. You don't question  
25 the fact that's he's an engineer?

0012

1 A. I question it.

2 Q. You do question it?

3 A. Yeah. He didn't do any engineer  
4 work for us. He was a fraud. He seen a couple  
5 up here in Minnesota, going to take advantage of  
6 them. That's why we got rid of him. Our locker  
7 would not have gotten built if it would have  
8 stayed that route.

9 Q. Well, let me try to stick with the  
10 facts as they occurred. When you first met with  
11 Bob in February, you discussed with him what you  
12 wanted to do, am I correct?

cbriard

13 A. Uh-huh.  
14 Q. And he explained to you that he had  
15 done this kind of work before and would be  
16 willing to help you?

17 A. Yes.

18 Q. And you asked him to help you?

19 A. There was no formal hand shake or  
20 written contract.

21 Q. I understand there was no written  
22 contract.

23 A. There was no formal hand shake he  
24 was going to take on the job, we just kind of  
25 assumed it.

0013  
1 Q. I will accept there is no formal  
2 hand shake. But you did know that he did agree  
3 to take on the job?

4 A. Uh-huh. Told me how much. We took  
5 him out to my folks to visit and my dad told me  
6 to watch him. But I didn't heed that advice.

7 Q. You said he told you how much.

8 A. Told me like \$30,000.

9 Q. For what?

10 A. Engineer work.

11 Q. Okay. And as things evolved, you  
12 received from Bob, probably we won't mark them  
13 today. We'll be coming back and looking at the  
14 documents. Do you have a memory of receiving  
15 from, would be various estimates or costing  
16 sheets?

17 A. Uh-huh.

18 Q. And all of those sheets had, there  
19 is one of the line items, design fees or  
20 engineering fees?

21 A. That was just an engineering fees  
22 was just a lump sum.

23 Q. But you always knew there was a cost  
24 associated with the work that Bob was doing?

25 A. Yes.

0014  
1 Q. Always knew that he expected to be  
2 paid?

3 A. Yes.

4 Q. And you always expected to pay him?

5 A. Yes.

6 Q. And that expectation and that  
7 understanding continued from the very beginning  
8 through February or March of 2004 when you  
9 called him up and said we don't want you to do  
10 any more?

11 A. Until we were convinced that he was  
12 not capable.

13 Q. Now during the period of time that  
14 you were working with Bob, you don't dispute the  
15 fact that he made many trips to Minnesota?

16 A. Uh-huh.

17 Q. Met many times with you and your  
18 wife?

19 A. Yes.

20 Q. Looked at various sites, spent a lot  
21 of time looking at various locations, you don't  
22 dispute that?

23 A. I don't dispute that.



cbriard

24 Q. He shared with you not only various  
25 estimates, he also shared with you various

0015 design documents, various layouts?

1 A. Yes.

2 Q. And this was all part of an ongoing  
3 discussion between you and your wife and Bob  
4 talking about how you could do this project the  
5 way you wanted it for the amount of money that  
6 you wanted to spend?

7 A. Yes.

8 Q. And during the course of that there  
9 were many changes in the concept?

10 A. Correct.

11 Q. And Bob made various recommendations  
12 about not only the design but also features that  
13 could be changed in order to save money?

14 A. Say that again.

15 Q. Bob made recommendations to you  
16 about the design and about features that could  
17 be changed to save money?

18 A. Yes. But we started getting  
19 suspicious when he starts giving advice to save  
20 money.

21 Q. Why did that make you suspicious?

22 A. Because, why did that make me  
23 suspicious? He trimmed, he trimmed, trimmed  
24 where it shouldn't have been trimmed. The

0016 building we have today, although it went over  
1 and above what the dollar amount that Jim  
2 Soncrant came up with, we got many hundreds of  
3 thousands of dollars more value going this way.  
4 Bob wanted to go up so far with block and the  
5 rest was steel and studded wall. We got 16 foot  
6 block side walls and a precast roof and a double  
7 tuck smoke house, a \$40,000 stuffer. We have  
8 got so much more for our money. The rail  
9 system, this is how much of a crook he is, the  
10 rail system he was going to build down in Texas  
11 and ship it up here for 56,000 or something like  
12 that. Here Kramer built it for 25,4 or 24,5,  
13 something like that. Bob was going to come out  
14 of here and he told Dakota, Tom at Dakota  
15 Refrigeration that we are going to make a lot of  
16 money on this deal to the effect I made a lot of  
17 money on deals like this before and Tom will say  
18 it in front of the judge. Every one of those  
19 first original contractors, every one will vouch  
20 for it Bob didn't know what the hell he was  
21 doing. Ron Seik, the cement man, he says what  
22 the hell, how am I supposed to bid off of this.  
23 Every one of them was pissed off, every one.  
24 You can call them up right now. Randy's got the

0017 list. No. Bob Bowlin does not deserve a dime.

1 He's incapable and he's crooked.

2 Q. I want to go back. Let's talk about  
3 the bank. Can we do that for a minute?

4 A. Sure.

5 Q. The budget that you obtained from  
6 Jim with the SBA.

7 A. Yes.

cbriard

9 Q. That's your official involvement  
10 with the financial side of this, am I right?

11 A. Yes.

12 Q. When did you first start meeting  
13 with the bank?

14 A. I don't know.

15 Q. Give me your best.

16 A. Oh, probably, Jim Soncrant, the  
17 bank, contractors and Bob kind of all at the  
18 same time because they all had to progress at  
19 the same time. I wouldn't know no dates.

20 Q. Who was the loan officer?

21 A. Dale Hetland and Pete Shae.

22 Q. Was Dale somebody you worked with  
23 from the beginning through the end?

24 A. Pete Shae we started with and Dale  
25 got on board shortly.

0018 Q. And did Dale finish the--

1 A. Yes.

2 Q. The deal. And that's the reason  
3 he's sitting here today, he's been the primary  
4 banker?

5 A. Yes.

6 Q. We've already heard testimony about  
7 a period of time in 2003 where you were trying  
8 to arrange financing but didn't have a firm loan  
9 commitment. Do you know what I'm referring to?

10 A. Uh-huh.

11 Q. You agree that at some point in mid  
12 2003 you had a discussion with Bob wherein he  
13 told you that he didn't want to devote any  
14 further time or commit any further money to this  
15 until you got a loan lined up, firmed up?

16 A. Yes.

17 Q. So you understood that?

18 A. Yes.

19 Q. And it wasn't until November that  
20 you did obtain some kind of a commitment from  
21 the bank?

22 A. Yes. Most of that delay was not the  
23 bank's fault or our fault, it was Bob's. We do  
24 know, like I said earlier, they wanted numbers  
25

0019 1 and he wanted numbers. We were caught in the  
2 middle.

3 Q. Here is my first question. What is  
4 it, as you understand it, that the bank finally  
5 got on or before November of 2003 that allowed  
6 them to make the commitment?

7 A. A very inadequate list of numbers.

8 Q. Were these numbers provided by Bob?

9 A. They were provided by Bob and they  
10 were provided by contractors that had a hell of  
11 a time bidding. It's funny the whole package  
12 turned out as good as it did.

13 Q. What whole package?

14 A. That's what we borrowed on so we  
15 don't, that and Jim Soncrant's numbers. We  
16 didn't know where that was going to come out  
17 until Harry Kramer got involved and it was  
18 pretty darn close.

19 Q. I'm sorry, I'm not following you at

cbriard

20 all. When Harry Kramer gets involved, the  
 21 number goes up to a million dollars?  
 22 A. Yeah.  
 23 Q. When you were working with Jim and  
 24 Bob, the number was 800,000?  
 25 A. Yeah.

0020  
 1 Q. And we'll go back to the bank. Your  
 2 understanding is that the bank made it's initial  
 3 loan commitment based on information from Bob,  
 4 is that an accurate statement?  
 5 A. From Bob? Yeah. Bob and I.  
 6 Q. And then once the loan commitment  
 7 was received there was further work, you focused  
 8 on fine tuning the plans?  
 9 A. Yes.  
 10 Q. And Bob, and I understand there was  
 11 some personal issues in his life that he had to  
 12 deal with that interrupted things, but Bob  
 13 continued to work and made additional trips up  
 14 here to Minnesota?  
 15 A. Yes.  
 16 Q. And as part of one of those trips he  
 17 explained to you that it would be a good thing  
 18 to sit down with the USDA to have them look at  
 19 the layout to see if they had any suggestions?  
 20 A. Yes.  
 21 Q. So the changes could be made while  
 22 it was still easy and cheap to make those  
 23 changes?  
 24 A. Yes.  
 25 Q. That meeting with USDA you were not

0021  
 1 there?  
 2 A. No.  
 3 Q. Your employee Carl was there?  
 4 A. Yes.  
 5 Q. And I understand Carl came back from  
 6 that meeting and reported to you?  
 7 A. Correct.  
 8 Q. What did he tell you?  
 9 A. He come back and said, "Bob doesn't  
 10 know what he's talking about." After Bob Bowlin  
 11 left that meeting, Carl visited an hour or two  
 12 with the inspector. Carl come back and informed  
 13 us of everything so I called Scott Cooper  
 14 myself. Scott Cooper said if you stick with  
 15 this guy Bob you're going to get screwed. Here  
 16 is the name of a contractor that will get it  
 17 done for you, which was Harry Kramer.  
 18 Q. So you called Cooper, not the other  
 19 way around?  
 20 A. I called Cooper, I believe so. But  
 21 I think so, I'm not sure.  
 22 Q. And is that basically the point in  
 23 time where you decided you were going to cut  
 24 your ties with Bob?  
 25 A. That's right.

0022  
 1 Q. And did you quickly thereafter give  
 2 him a call and say just that?  
 3 A. I didn't call him at all. I think I  
 4 waited until he called me.

cbriard

5 Q. Why did you wait?

6 A. I could have called him. I don't  
7 remember. But I think he called me. I think  
8 so.

9 Q. Well, regardless of who called --

10 A. Yeah. Right.

11 Q. -- Let's just talk about the  
12 conversation. You tell me how you remember it.

13 A. I just told him, I says, we are  
14 looking at a general contractor, I think that's  
15 what I said. Short and brief.

16 Q. You remember telling him that you  
17 would treat him fairly?

18 A. No, I didn't. No, I don't. I heard  
19 that earlier. No.

20 Q. Okay. At the point in time when you  
21 told Bob that you were looking at a general  
22 contractor, did you know that he had made  
23 arrangements to associate himself with an  
24 engineering firm and an architectural firm in  
25 Minnesota?

0023  
1 A. No. We never seen any papers from  
2 those people or the names or nothing.

3 Q. And I gather you never had a  
4 conversation with him once you became concerned  
5 about these, about, you never gave him a chance  
6 to tell his side of the story?

7 A. Bob?

8 Q. Yes.

9 A. He's not capable to get that built.  
10 That wouldn't have gotten built.

11 Q. My question is did you ever give him  
12 a chance to let him respond to your concerns?

13 A. No. We wanted him out of the  
14 picture.

15 Q. You heard from Carl and you had a  
16 conversation with Cooper and you decided that  
17 Bob was done and that was it?

18 A. That's right.

19 Q. And that's exactly the way you did  
20 it?

21 A. That's right.

22 Q. And did not at any time pay Bob so  
23 much as a single dime?

24 A. Haven't given him a thing.

25 Q. Haven't reimbursed him for any of

0024  
1 the expenses he incurred?

2 A. No.

3 Q. You don't dispute certainly that he  
4 has incurred a great deal of expense?

5 A. He could have, but it wasn't, there  
6 is nothing we could use.

7 Q. What are the, well, let's get there  
8 in baby steps. When you decided that you were  
9 going to no longer work with Bob and go in an  
10 entirely different direction, I guess Trudy has  
11 already told me you did get Kramer's name from  
12 --

13 A. Scott Cooper.

14 Q. From Scott Cooper. And you called  
15 Kramer?

cbriard

16 A. Yes.  
17 Q. And he indicated some interest so  
18 you went to see him at his office in Melrose?  
19 A. Yes.  
20 Q. When you went to see him, and it was  
21 just you and Kramer?  
22 A. And the Beutow guys were there, the  
23 engineer guys Harry had lined up that.  
24 Q. When you went to this meeting, first  
25 of all, when did that meeting occur?  
0025 A. About 7:00 in the morning. I don't  
1 know.  
2 Q. What month?  
3 A. I'm thinking March. It happened  
4 pretty quick. After Scott Cooper give me the  
5 name of Harry, we got within a couple days and  
6 then the next Monday I think I met with Harry,  
7 so March probably.  
8 Q. Whatever date it was, when you met  
9 with Harry and the fellow from the architectural  
10 firm, did you have any of the layouts or any of  
11 the plans that Bob had prepared?  
12 A. Yes. I had sketches that Bob and I  
13 had prepared.  
14 Q. And you gave those to Kramer?  
15 A. Yes. We looked down there and they  
16 all started laughing and said this guy is a  
17 fraud. The Beutow guys said that. This guy  
18 doesn't know what he's doing.  
19 Q. The facility that is there today,  
20 you agree with Trudy that it conforms to the  
21 plans prepared by Beutow?  
22 A. Yes.  
23 Q. If we went out and looked at it,  
24 what we see on the paper would be the same  
25 thing?  
0026 A. There is a couple doors that are  
1 different or whatever. It's basically the same  
2 thing. This has been in the window. Other than  
3 that few doors aren't in the right place, that's  
4 it.  
5 Q. Do you also agree in terms of the  
6 work product that Beutow prepared, what we're  
7 looking at is all there ever was?  
8 A. No. I believe there was some more.  
9 Q. What else was there?  
10 A. I think there was, there was -- it  
11 didn't mean anything to me. I think there was  
12 possibly some more with pictures and  
13 measurements of the gable end. I'm not a  
14 contractor so I can't say. But I recollect that  
15 there was more.  
16 Q. If there was more, where is it  
17 today, would you have it somewhere?  
18 A. Well, if I wouldn't have it, Beutow  
19 would have a copy of it.  
20 Q. Let me just make sure that the rest  
21 of the names Trudy gave me square with your  
22 recollection. Kramer of course is the primary  
23 contractor?  
24  
25  
0027

cbriard

1 A. Builder, yup.  
2 Q. Builder. But you were acting as the  
3 general, so to speak?  
4 A. Yes.  
5 Q. Hank's Heating from Detroit Lakes  
6 did the mechanical?  
7 A. Yes.  
8 Q. Joel Nyseivold?  
9 A. Electrician.  
10 Q. Koch Refrigeration and Koch  
11 Equipment?  
12 A. Koch.  
13 Q. Koch. Anyone else on the list?  
14 A. There was a bunch of just small  
15 subcontractors or whatever. You need to know  
16 them I will give them to you.  
17 Q. I don't think that's necessary. Who  
18 did the cement work, was that Kramer?  
19 A. Yeah.  
20 Q. Did he sub that out, do you know?  
21 A. No. He did it himself.  
22 Q. We have been using round numbers,  
23 the million dollar number. What was the actual  
24 final bill?  
25 A. I can't tell you.

0028

1 Q. Was it more or less than a million?  
2 A. Have to add it up to tell you to  
3 give you an honest answer.  
4 Q. If you know, have all of the, has  
5 the loan been fully disbursed at this point?  
6 A. Yes.  
7 Q. Are there any reserves or  
8 contingencies that --  
9 A. Everybody's paid.  
10 Q. The mechanics lien that was filed on  
11 behalf of Bob?  
12 A. Yes.  
13 Q. No money was reserved as a result of  
14 that?  
15 A. No.  
16 Q. What are the, let's try to compare  
17 apples and oranges for a minute. Comparing the  
18 layout that Bob was proposing to the layout you  
19 have got today, what's different?  
20 A. What's different? Probably not  
21 much. There is some things different that we  
22 changed. Bob and I had come up with most of  
23 that. That's what all those fact sheets over  
24 there. He ran up that one proposal, two  
25 proposal, three and we faxed them back and

0029

1 forth. He'd give me options of what to do and  
2 some of them were fine and some of them had to  
3 be changed.  
4 Q. But the --  
5 A. All the rooms are different though.  
6 I made the two rooms bigger and a couple smaller  
7 and moved some rooms. But the outside wall  
8 dimension is the same probably as what Bob --  
9 Q. Okay. Other than some small  
10 dimensional changes, the basic layout I think  
11 you indicated is pretty much the same?

cbriard

A. What Bob and I come up with.

Q. From an equipment standpoint. We touched on a lot of this already. Give me a more complete answer. What equipment do you feel that you have today that was not part of the proposal that you were talking to Bob about?

A. Well, vacuum stuffer, double tuck smoke house. We have got an 800 pound tumbler that Bob builds, was going to sell me. At one meeting Carl, him and I were sitting down in the new building and said, "I'm going to price this out. I don't want to buy it from him." He says, "No you ain't." I said why. "Because I won't let you. Get a price from anyone else."

No. There was so much padded and it would take some time to figure it out. I know enough that he was a crook and I'm not expecting I'm giving him anything.

Q. Why don't we take a quick break here.

(Recess taken.)

MR. CORWIN I just have a few more questions for the time being.

Q. Look at cost from a different perspective here for a minute. First of all, do you know how big your facility is, what the square footage is?

A. No.

Q. And you probably don't know what it cost on a square foot basis?

A. No.

Q. But we can easily figure that out once we have the numbers and the plans?

A. Sure.

MR. CORWIN: With that I think again probably at this point without having had a chance to look at the documents there is not much to be gained in belaboring some of these things. Let's continue this deposition until a

later date.

MR. STEFANSON: Agreed.

(This deposition was concluded at

2:40 p.m.)

cbriard

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NOTARY REPORTER'S CERTIFICATE

STATE OF NORTH DAKOTA  
COUNTY OF CASS

I, Douglas T. Ketcham, a Notary Public within and for the County of Cass and State of North Dakota do hereby certify: That prior to being examined the afore-named witness was by me sworn to testify the truth, the whole truth, and nothing but the truth.

That said deposition, consisting of thirty-one (31) pages of typewritten materials, was taken down by me in Stenotype at the time and place therein named, and was thereafter reduced to typewriting under my direction.

I further certify that I am neither related to any of the parties or counsel nor interested in this matter directly or indirectly.

WITNESS my hand and seal this 27th day of September, 2005.

Douglas T. Ketcham  
Notary Public  
Fargo, North Dakota

My commission expires June 27, 2008.

EXHIBIT 4



bowlin

0001

1 STATE OF MINNESOTA IN DISTRICT COURT  
2 COUNTY OF CLAY SEVENTH JUDICIAL DISTRICT  
3 Case Type: Other Civil  
4 Bowlin Engineering Co.,  
5 Plaintiff,  
6 vs.  
7 Cameron Briard and Trudy Briard, d/b/a  
8 Ulen Locker; Northwestern Bank, N.A.; and  
9 West Central Initiative; and United States  
10 of America, acting through the Small  
11 Business Administration,  
12 Defendants.

13 D E P O S I T I O N  
14 of  
15 ROBERT BOWLIN  
16 July 21, 2005  
17 9:30 o'clock A.M.

18 Taken at: Stefanson Law Firm  
19 Third Floor U.S. Bank Building  
20 403 Center Avenue  
21 Moorhead, Minnesota

22  
23 REPORTER: DOUGLAS T. KETCHAM

24 (PURSUANT TO NOTICE)

0002

25 A P P E A R A N C E S

1 WICKHAM CORWIN  
2 Attorney at Law  
3 of  
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5 Wells Fargo Center  
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7 Fargo, North Dakota 58103  
8 COUNSEL FOR PLAINTIFF

9 RANDOLPH E. STEFANSON  
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16 Moorhead, Minnesota 56561-1287  
17 COUNSEL FOR DEFENDANTS

18 ALSO PRESENT: Cameron Briard  
19 Trudy Briard  
20 Dale Hetland  
21

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I N D E X

WITNESS  
Robert Bowlin  
Examination -- by Mr. Stefanson

PAGE NO.  
4

WHEREUPON:

The following proceedings were had to-wit:  
MR. STEFANSON: This is the time and place agreed upon by counsel for the deposition of Robert Bowlin, the Plaintiff in this case.

ROBERT BOWLIN, a witness, called by the Defendants, being first duly sworn, testified on his oath as follows:

BY MR. STEFANSON EXAMINATION

Q. Mr. Bowlin, my name is Randy Stefanson and I represent all of the Defendants in this case. And this is an informal setting as you can see here in the law office. We don't have a judge or jury present and you have just taken the oath and that oath binds you to testify just as you would if you were in court, you understand that?

A. Right.

Q. And if you answer a question, I assume that you fully understood the question I asked. If you don't understand it, I would appreciate it if you tell me that and I'll try to rephrase it so you do understand it.

A. Okay.

Q. The reason for that is if you don't

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understand the question and answer it, later you get into court and give a different answer, I will be asking you to explain the difference, is that fair?

A. Okay.

bowlin

6 Q. Mr. Corwin may object to some of my  
7 questions from time to time and if he objects,  
8 under most circumstance you're still required to  
9 answer. I will ask you for an answer unless  
10 otherwise he instructs you not to answer and he  
11 may do that. If he does, then you don't answer  
12 and we'll deal with that, okay?

13 A. Okay.

14 Q. Is there anything with your  
15 physical, emotional health today that would  
16 cause any problems for you we have to be aware  
17 of?

18 A. Nothing. I may have to have a  
19 sudden excuse in the interim of this thing  
20 sometime.

21 Q. You explained that to me. That's  
22 fine. You can take a break any time you feel  
23 like you want to. If I ask you during the  
24 course of the deposition to give an estimate or  
25 recollect something that may not be crystal

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1 clear to you, I'd like you to do your best to  
2 recollect what you can because you may not have  
3 as clear a recollection of the events that  
4 occurred several years ago. You're still  
5 obligated to give me your best answer if you  
6 don't know, then you tell me you don't know.  
7 Therefore, if I ask you about specific  
8 conversations, you can't recall the exact words,  
9 I'd hope you can just tell me the substance as  
10 you best recollect. Of course, that means if  
11 you say you don't recall and in fact you do have  
12 some recollection, you'd be required to give  
13 whatever recollection you have. Any questions  
14 before we start?

15 A. None.

16 Q. What's your date of birth?

17 A. 9-18-35.

18 Q. That's three weeks before I was  
19 born. You beat me. What's your home address?

20 A. 4001 Tamworth, T-a-m-w-o-r-t-h, Road  
21 in Fort Worth.

22 Q. And your business address?

23 A. 600 Burlington Road, Fort Worth,  
24 Texas.

25 Q. And you're a graduate of Rice

0007

1 University, is that right?

2 A. Right.

3 Q. And when did you graduate?

4 A. In 1957 and '58.

5 Q. You have a degree in mechanical  
6 engineering?

7 A. Yes.

8 Q. Any other degrees?

9 A. No.

10 Q. Any further post secondary  
11 education?

12 A. No.

13 Q. How long have you been employed with  
14 or by Bowlin Engineering?

15 A. Since 1966.

16 Q. And what is your employment status

bowlin

today?

A. I guess semiretired.

Q. What does that mean?

A. I work part-time.

Q. When did you become semiretired?

A. This year.

Q. So you worked full-time up until

2005?

A. Right.

Q. When you were working full time, first of all, is Bowlin Engineering a Texas Corporation?

A. It is.

Q. Were you a principal in that corporation?

A. Yes.

Q. And what percentage of stock ownership did you have?

A. Majority. Ninety plus.

Q. So were you president of Bowlin Engineering?

A. Yes.

Q. How many employees did you have?

A. Twelve. Recently 12.

Q. What does Bowlin Engineering do?

A. It's primarily a manufacturing company that builds equipment for steel service industries and there is an associated company, Leland Southwest, that builds equipment for food processing industry.

Q. Does Bowlin Engineering offer professional engineering services to clients or customers?

A. I do personally.

Q. And with that to whom do you offer those services?

A. In the material handling industry for plant layout and then I've done a number of meat plants.

Q. How many?

A. Probably 12 or 15.

Q. When you say you've done meat plants, what does that mean?

A. Designed, helped build. Some I have done a lot less, maybe do a layout and furnish equipment.

Q. So in that context you provide professional engineering services to the client?

A. Right.

Q. And do you provide architectural services to clients?

A. No.

Q. Are you a registered engineer in the state of Texas?

A. Yes.

Q. How long have you been registered?

A. I think since the mid '60's.

Q. Have you ever been subject to any disciplinary action by the Texas board of

engineering?

bowlin

2 A. None.  
3 Q. Have you ever been sued? I mean by  
4 that your company.  
5 A. No. Bowlin Engineering has not.  
6 Q. Have you ever been sued personally  
7 in your capacity --  
8 A. No.  
9 Q. -- as an --  
10 A. No.  
11 Q. -- engineer?  
12 A. No.  
13 Q. Have you ever had your deposition  
14 taken?  
15 A. Once.  
16 Q. When?  
17 A. I don't remember. Within the last  
18 10 years.  
19 Q. In what kind of a case?  
20 A. It was a product case on a food  
21 machine.  
22 Q. Were you a party to that action?  
23 A. Only as an officer in the company.  
24 Q. Were you sued individually?  
25 A. No.  
0011  
1 Q. Who was sued?  
2 A. Leland Southwest.  
3 Q. And that's a subsidiary of --  
4 A. No. It's an independent corporation  
5 in Texas.  
6 Q. What does Leland do?  
7 A. Builds food processing machinery.  
8 Q. Is it connected in any way other  
9 than ownership with Bowlin?  
10 A. No. That's common owners.  
11 Q. Is it in a separate facility?  
12 A. No. It's common, separate places  
13 within a common building.  
14 Q. What was the nature of that lawsuit?  
15 A. That was a problem with maintenance  
16 on a machine and a fellow claimed to be hurt.  
17 Q. Personal injury?  
18 A. Right.  
19 Q. What was the result?  
20 A. Nothing. It was settled, basically  
21 dismissed.  
22 Q. Did you pay them money?  
23 A. A little.  
24 Q. So that's the only time you've been  
25 involved in any litigation in Texas or anyplace  
0012  
1 else?  
2 A. Right. Well, wait a minute. Let me  
3 clarify. There was a suit in 19, early 1980's  
4 that an insurance company handled on a similar  
5 type of a lawsuit.  
6 Q. Which company was that?  
7 A. Leland.  
8 Q. How did you first become aware of my  
9 clients, the Briards?  
10 A. I was told by my brother-in-law,  
11 Chan Zuger, who had done a little bit of work  
12 for them that he was referring them to me.

bowlin

13 Q. For what purpose?  
14 A. To build a meat plant.  
15 Q. And when did that occur?  
16 A. In early 2003. Maybe, maybe late  
17 2002. I'm not sure.  
18 Q. Had you ever worked in Minnesota  
19 before?  
20 A. Some.  
21 Q. What kind of services did you  
22 provide in Minnesota?  
23 A. I worked for my other brother-in-law  
24 when he took a six-week hiatus and kind of ran  
25 his architectural company, not as an architect  
0013 or an engineer but as a manager.  
1 Q. When was that?  
2 A. That was in 2003 I think, latter  
3 part.  
4 Q. What's his name?  
5 A. Jerry Zuger.  
6 Q. Chan's brother?  
7 A. Yes.  
8 Q. Where is Chan at?  
9 A. Chan's in Minneapolis.  
10 Q. Jerry is?  
11 A. At that time he was in Glenwood.  
12 Q. Jerry?  
13 A. Right.  
14 Q. You have a home in Glenwood?  
15 A. Right.  
16 Q. A summer home?  
17 A. Right.  
18 Q. Are you married?  
19 A. Yes.  
20 Q. Do you have a family?  
21 A. Two children.  
22 Q. And how much time do you spend in  
23 Minnesota as opposed to Texas?  
24 A. Try for four or five months.  
0014  
1 Q. In Minnesota?  
2 A. Right.  
3 Q. Tell me about your first contact  
4 with my clients.  
5 A. I really don't recall. We had phone  
6 conversations and then I came to Minnesota. I  
7 think maybe Chan and I came together out here  
8 and met and discussed the plant. He had made a  
9 layout.  
10 Q. He being Chan?  
11 A. Right. And we, it was a stand alone  
12 facility at that time and we had some  
13 conversations about trying to use that drawing  
14 and expand it.  
15 Q. What would qualify him to make  
16 drawings of the meat plant?  
17 A. Yes. On a layout because he was a  
18 qualified individual and had done that for a  
19 number of years.  
20 Q. When you say qualified, what do you  
21 mean?  
22 A. He had a lot of experience.  
23 Q. Was he formally, is he an engineer?

Page 6

EXHIBIT 5

bowlin

24 A. No. No. It's not required to be an  
 25 engineer to do layouts.

0015 1 Q. I see. He's an equipment salesman,  
 2 isn't he?  
 3 A. Right.  
 4 Q. And he sells the kind of equipment  
 5 they use in meat plants?  
 6 A. Right.  
 7 Q. How long has he been doing that?  
 8 A. Since probably 1960, somewhere in  
 9 that neighborhood.  
 10 Q. Is he still working?  
 11 A. Right. He is.  
 12 Q. So you have a vague recollection of  
 13 your first contacts with my clients. Do you  
 14 have any recollection of dates of those initial  
 15 contacts by phone?  
 16 A. Not, no. Only in that first quarter  
 17 or late winter in '03. Let me see, because I  
 18 got involved in the first half of 2003 and I  
 19 think that the loans were approved in late 2003  
 20 if my dates are right.  
 21 Q. The loans by the bank and SBA?  
 22 A. Right. Right. I may have to verify  
 23 that or ask verification.  
 24 Q. Now to the best of your recollection  
 25 during those first telephone conversations, what  
 0016 1 did my clients say to you and what did you say  
 2 to them?  
 3 A. We had discussions about whether I  
 4 had done this type work and we had recently  
 5 finished a major remodel that was very similar.  
 6 Q. Where at?  
 7 A. In Muenster, Texas. And we  
 8 decided -- we had no written contracts. I have  
 9 never had a written contract with a meat  
 10 company. We, I guess, agreed that what we had  
 11 done would probably work.  
 12 Q. What you had done in Texas?  
 13 A. Right. And other places. The  
 14 method we -- we do kind of a design build and  
 15 the owners, or, are the contractors, own all the  
 16 work that we've done.  
 17 Q. Did you tell them you'd provide  
 18 engineering services to them?  
 19 A. Some of that would have been  
 20 required. I couldn't do it but part of my  
 21 responsibility was to have other people and in  
 22 fact we had two people, professionals, here in  
 23 the state who were part of the team.  
 24 Q. Who were they?  
 25 A. Craig Blahut.

0017 1 Q. Spell that for --  
 2 A. B-l-a-h-u-t. And he's with ISS.  
 3 They're structural engineers.  
 4 Q. Where?  
 5 A. In Monticello.  
 6 Q. Are you related to anybody there?  
 7 A. No.  
 8 Q. Then whom?

bowlin

9 A. Then Jerry Zuger's firm would do the  
10 work in drawings and he's an architect.

11 Q. Does he have engineers on his staff?

12 A. No. Architects. He works with  
13 other engineering people.

14 Q. And he's in Glenwood?

15 A. Right. Was at the time.

16 Q. Did you introduce my clients to  
17 either Mr. Blahut or Jerry Zuger?

18 A. No.

19 Q. Did you ever tell them who you were  
20 going to use for these engineering services?

21 A. I don't recall. I did, I did  
22 mention that there would have to be a structural  
23 engineer involved and that, you know, I could  
24 not do that up here.

25 Q. Why not?

0018 A. Because I wasn't registered in  
1 Minnesota.

2 Q. Have you been contacted by the  
3 engineering board in Minnesota, architects and  
4 engineers?

5 A. I have not.

6 Q. You know that a complaint has been  
7 filed against you in Minnesota?

8 A. Yes.

9 Q. So you don't know what the progress  
10 of that is?

11 A. I only know from the two people who  
12 got the papers which is Jerry Zuger and Craig  
13 Blahut.

14 Q. Did you ever represent to my clients  
15 that you were qualified to provide engineering  
16 services in Minnesota?

17 A. I told them that I was an engineer  
18 and I have done these kinds of plants. I had to  
19 have some work done by licensed people here,  
20 mainly the structural.

21 Q. This is an appropriate time for me  
22 to say for the record that Mr. Corwin and I have  
23 voluntarily agreed to produce certificates and  
24 documents which we have in fact produced today

0019 1 and you've seen those documents that were  
2 produced by counsel and you have seen me hand  
3 your lawyer certain documents from our files,  
4 correct?

5 A. Right.

6 Q. And I guess we've agreed that what  
7 we're going to do since we have not had a chance  
8 to review these documents given the fact they  
9 were just produced today, we're going to do as  
10 much of this deposition as we can and then we'll  
11 be reviewing the documents, if necessary, to  
12 come back and continue the deposition, we'll do  
13 that. I say that simply because I'm wondering,  
14 Mr. Bowlin, if you know having gone through your  
15 files that have been produced today whether or  
16 not there's any document of any kind in those  
17 files which reflects conversations between you,  
18 your brother-in-law, Jerry Zuger, or the  
19 engineer that you mentioned concerning the



bowlin  
20 arrangement that you claim you had with them to  
21 do this engineering work and architectural work?  
22 A. With Jerry Zuger it was verbal.  
23 With ISS we had a contract.  
24 Q. Is that contract in the --  
25 A. Right. It's in --

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1 Q. In the documents?  
2 A. It's in the documents.  
3 Q. Okay. Did you ever give my clients  
4 a copy of that contract?  
5 A. I don't think so.  
6 Q. Does your claim contain any, any  
7 aspects of your claim contain a claim for  
8 engineering services?  
9 A. Yes.  
10 Q. How much of the, I believe, \$68,000  
11 you're claiming was for engineering services?  
12 A. How much at that point was probably  
13 half.  
14 Q. Do you have a bill from Blahut?  
15 A. Not yet. I put the job on hold when  
16 we were notified to stop.  
17 Q. Do you expect a bill from Blahut?  
18 A. By all means. He did some necessary  
19 work.  
20 Q. I see. Do you have evidence of that  
21 in your file?  
22 A. Only in our drawings.  
23 Q. Did Blahut do the drawings?  
24 A. He didn't do any drawings. That is  
25 where he stopped. He did some of the

0021

1 engineering that we had to have for the  
2 locations of the additions.  
3 Q. Where is evidence of that?  
4 A. He's got it. I may have some, I  
5 don't know. I didn't look specifically for it.  
6 Q. Did you consult with Mr. Blahut  
7 about this litigation, that you were bringing a  
8 claim apparently on his behalf so he could be  
9 paid?  
10 A. Nope.  
11 Q. You are making a claim for his fees,  
12 are you?  
13 A. Yes. Right.  
14 Q. And when do you expect a bill from  
15 Mr. Blahut?  
16 A. I can call him and have it. I've  
17 been putting it off.  
18 Q. Why is that?  
19 A. He asked me one time if he should  
20 send a statement and I said no, not yet.  
21 Q. Why was that?  
22 A. Because I didn't know what the  
23 disposition of the contract was going to be.  
24 Q. You mean his contract or your --  
25 A. Right.

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1 Q. Or your contract?  
2 A. Both. Both.  
3 Q. So you're making a claim for fees  
4 that you believe are due and owing Mr. Blahut,

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5 although you don't know the amount?

6 A. Right.

7 Q. And you don't have any billing or  
8 other evidence of what work he performed?

9 A. On the estimates that we had done we  
10 had all of the engineering services grouped into  
11 one fee.

12 Q. So your testimony is, as I  
13 understand it, that you personally provided no  
14 engineering services in the state of Minnesota  
15 on this job?

16 A. I did a lot of engineering in Texas  
17 which could have become a part of it when the  
18 remainder of it was finished up here and then  
19 the working drawings would have the legal stamps  
20 on it. I never sent any drawings up with  
21 professional engineers stamped to my  
22 recollection.

23 Q. I'm going to repeat the question.  
24 Is it your testimony that you provided no  
25 engineering services to my clients in the state

0023 1 of Minnesota as apart of this claim?

2 A. I'm not sure how to answer that.

3 Q. Well, either you did or you didn't,  
4 is that fair?

5 A. I did engineering services which I  
6 did not sign the drawings or which, whatever  
7 that means, and they would have become a part of  
8 the engineering package to build the plant.

9 Q. Well, is it your testimony that some  
10 part of this claim is a claim for engineering  
11 services provided by you to my clients?

12 A. Yes.

13 Q. What part?

14 A. The design portions.

15 Q. Engineering services?

16 A. Right.

17 Q. So your testimony is that you  
18 provided engineering design services to my  
19 clients on this job in Minnesota?

20 A. Yes.

21 Q. How much of the claim?

22 A. Probably a third to half.

23 Q. A third of the total claim or half  
24 of the total claim?

25 A. Between the two. I never did,

0024 1 it -- I know in one of the letters that I wrote  
2 to Dale, I had mentioned 25,000 as where we were  
3 in the job.

4 Q. Now we being Bowlin Engineering?

5 A. Bowlin Engineering.

6 Q. What about Blahut?

7 A. That would have been included.

8 Q. In that third to a half?

9 A. Right.

10 Q. Well, you testified --

11 A. His, Blahut probably, our contract  
12 for the part that we had contracted for, first  
13 part of it was, I think the document will show  
14 was probably more than \$2000 and he had done  
15 more than half of that. He had not done

bowlin

16 drawings.

17 Q. Okay. You're going to have to  
18 explain that because I don't understand what  
19 you're telling me.

20 A. Okay. There was a, in the interim  
21 of this project, there was a, as I understand  
22 it, a change in the structural codes in the  
23 state of Minnesota that had to do with snow load  
24 and wind load. I won't try to repeat this like  
25 it was told to me. And we had to do the

0025

1 engineering for building separation between the  
2 existing building and the new one in order to  
3 comply and ISS had to do all of that work so  
4 that we could actually do the layouts.

5 Q. Is it your testimony that the  
6 drawings which have been, were given to my  
7 clients or that you have in your possession  
8 reflect engineering calculations concerning wind  
9 and snow loads?

10 A. Right.

11 Q. Those are reflected on the  
12 documents?

13 A. Only, only in the layout and the  
14 dimensions between the buildings. There is  
15 nothing on those drawings that would indicate,  
16 there is nothing on those drawings that would  
17 indicate that calculations were made. Wasn't  
18 written on the drawings.

19 Q. Where is it written?

20 A. In ISS's files. I do not have their  
21 files.

22 Q. Have you reviewed their files?

23 A. Only what they told me what the  
24 separations needed to be.

25 Q. By separations --

0026

1 A. They had, they had drawings, excuse  
2 me, they worked off of those to calculate and we  
3 did have to change some dimensions. There was  
4 one drawing early on that said, you know, this  
5 dimension has got to be verified by the  
6 structural and they did and we had to change it.

7 Q. Do you have any document in your  
8 possession which shows any engineering  
9 calculations regarding this project?

10 A. On the building, no. On the  
11 internal equipment, yes.

12 Q. And by that you mean the  
13 specifications for equipment to be used on the  
14 premises?

15 A. Some. And some of it was  
16 structural.

17 Q. What --

18 A. The rail systems and that sort of  
19 thing that supported all the loads, none on the  
20 building itself.

21 Q. Well, you manufacture rail systems?

22 A. Right.

23 Q. And you sell rail systems?

24 A. Right.

25 Q. And I assume that you had an

0027

bowlin  
1 existing engineering scheme for rail systems for  
2 a plant this size, as you've testified that  
3 you've done several like this?  
4 A. Right.  
5 Q. So those engineering calculations  
6 would be something you'd have sort of  
7 permanently on file, right?  
8 A. No. They're done, each job is  
9 different and requires separate calculations.  
10 Q. Okay. And from the standpoint of  
11 the documents that I have in the other  
12 conference room, which I think you prepared, and  
13 you've had an opportunity to review, is it your  
14 testimony that there is engineering calculations  
15 of any kind on those documents?  
16 A. To my knowledge, no.  
17 Q. The answer being yes, there are no  
18 calculations?  
19 A. Yes, there are no calculations on  
20 the drawings.  
21 Q. And your testimony is that the only  
22 calculations that you're aware of other than for  
23 the rail system, which you have down in Texas,  
24 which you manufacture, would be contained in the  
25 files of your brother-in-law's architectural

0028

1 firm in Glenwood?  
2 A. No. They, they won't have  
3 any -- the only thing that they did at the early  
4 point was do drafting. He wasn't prepared to do  
5 the working drawings.  
6 Q. Did Blahut, does Blahut's file have  
7 engineering calculations?  
8 A. I'm sure it must.  
9 Q. You haven't seen it?  
10 A. No.  
11 Q. Where is Mr. Blahut's office at?  
12 A. In Monticello.  
13 Q. Is he in any way connected by blood  
14 or business or otherwise with your  
15 brother-in-law in Jerry Zuger's firm?  
16 A. None.  
17 Q. He's an independent engineer that  
18 they contacted?  
19 A. And they've worked together in the  
20 past.  
21 Q. Have you ever worked with Blahut  
22 previously?  
23 A. Yes.  
24 Q. How many projects?  
25 A. Two.

0029

1 Q. Where at?  
2 A. A fairly sizeable building at  
3 Southwest State in Marshall and the city hall in  
4 Sauk Centre.  
5 Q. What services did you provide for  
6 those projects?  
7 A. Just a manager or whatever you'd  
8 want to call of an architectural firm. Blahut  
9 was a subcontractor.  
10 Q. That was in the period where your  
11 brother needed managerial?

bowlin

12 A. Right. Right.

13 Q. You never provided engineering  
14 services in Minnesota?

15 A. No.

16 Q. Now you testified that you did not  
17 have a contract with my clients, a written  
18 contract?

19 A. Right.

20 Q. Do you believe that you actually  
21 achieved the status of a contract orally with  
22 them?

23 A. Yes.

24 Q. Explain that to me.

25 A. We had a long series of meetings and

0030

1 work and drawings developing this project so  
2 that we could get enough data so that it could  
3 be funded and, you know, getting cost together  
4 on multiple attempts and even recommended that,  
5 and gave names of people to contact before we  
6 got involved to make sure that they were at ease  
7 with me.

8 Q. At what point in time did you reach  
9 an agreement with my clients?

10 A. Probably about February of '03.

11 Q. Okay.

12 A. I think I made another trip up here  
13 about that time.

14 Q. So it's your testimony that in  
15 February of '03 all of the preliminary  
16 negotiations necessary to reach a contract had  
17 been achieved?

18 A. I think so.

19 Q. In February of '03 what had you  
20 agreed then to do for my clients?

21 A. We were going to make drawings,  
22 whatever it took to get where they would be  
23 legal and satisfactory to give to them so that  
24 they could be a general contractor and get the  
25 plant built as a general contractor.

0031

1 Q. What else?

2 A. I was going to help them get the  
3 plant built.

4 Q. In what way?

5 A. Make occasional trips to help.  
6 Typically with one of these plants we get the  
7 layouts, enough drawings done and monitor the  
8 concrete, you know, layout, make a trip in when  
9 the walls start going up, make another trip when  
10 the plumbing is going on because these are  
11 critical points that make a plant good or bad,  
12 and then when the equipment, coolers start being  
13 installed. Takes about five trips during  
14 construction.

15 Q. Well, if you had a contract, an oral  
16 contract with my clients in February of '03, how  
17 long did it take you to complete the plans and  
18 specifications necessary to do what you just  
19 testified to?

20 A. We never did finish them.

21 Q. Why is that?

22 A. We got a call in, I guess, February,

0032

4 Q. Why not?

6 Q. But that was a year after you

8 A. well, we worked until June of '03

10 all of our costs at that time and I said I don't

12 loans were approved and I think I gave estimates

14 know one was high and we had to go in and

16 shrink it and then I was not going to have

18 approved:  
19 O.

21 A. To Briards.

23 A. It would have had to have been in

25 May of same.  
Q. of '03?

1 A. of '03. Then they called and asked

4 Q. You're referring to Dale Hetland the  
5 banker?

7 Q. Who's sitting here?

10 name right. And an individual from, I guess, I

12 work. So I went up there in September and we

14 a call in later November of '03 saying that the

16 in, I think, December and we went over the final

18 finished all of the layout drawings and prepared

20 review and let them voice their opinions, which  
21

22 approved, well, they don't approve, once they  
23

24 the next step would be to finish the working  
25 drawings. I don't want to do that.

0034  
1 drawings until you've got a final plan

2 otherwise you have to pay for it twice.  
3 Q Did you assist the Friends

4 securing bids from your plan  
5 A I think so, yes.

7 A. Met with contractors and got

Page 14

8 estimates from them so that we could put the  
9 estimate together for the bank. We never did  
10 get firm bids because we would have had to have  
11 the working drawings finished and at that point  
12 I was fronting all the money for all of the  
13 engineering.

14 Q. Did you make payments to them?  
15 A. No.  
16 Q. What engineering were you fronting,  
17 what money?  
18 A. Our own internal costs.  
19 Q. How much was that?  
20 A. Probably 20 or \$30,000 plus labor,  
21 time.  
22 Q. Do you have that broken down  
23 someplace?  
24 A. It's in some of the documents.  
25 Q. It's in the documents that you have  
0035 in there?  
1 A. Right. Right.  
2 Q. There is a clear breakdown of what  
3 those costs were, if we look at it we'll see?  
4 A. I think so.  
5 Q. Did you review your file before you  
6 came here today?  
7 A. No. I did two weeks ago.  
8 Q. So if I understand you correctly,  
9 your position is in February of '03 you achieved  
10 a contract with my clients but by February, '04  
11 you'd still not completed working drawings and  
12 you did not have specific bids from  
13 subcontractors because the working drawings  
14 weren't complete?  
15 A. That's right.  
16 Q. But you did have some bids from some  
17 subcontractors which were based upon what?  
18 A. They were based on the drawings that  
19 we did of which they would not give firm bids  
20 because the drawings lacked the working drawing  
21 part of which is all the details. But we had  
22 gotten firm prices from refrigeration people,  
23 cooler people because they didn't require  
24 anything else, cooler panel people. Concrete  
25  
0036 was an estimate, the plumbing was an estimate,  
1 the electrical was pretty firm.  
2 Q. Now did you say that the reason you  
3 didn't have working drawings is because you  
4 didn't know whether the loan had been approved?  
5 A. No. That was prior. The loan was  
6 approved before I got the final layouts that we  
7 put together for the USDA.  
8 Q. Now the final layouts, are they the  
9 ones we see on my table in there?  
10 A. I think they are.  
11 Q. The ones my clients had and gave to  
12 me, not the ones you got?  
13 A. Yours should have been copies of  
14 what I've got.  
15 Q. Okay. So you characterize those as  
16 so-called quote final layouts unquote?  
17 A. I think that would be okay.  
18

bowlin

19 Q. Are those sufficient to bid on?  
20 A. For running estimates, yes.  
21 Q. I'm saying are they sufficient upon  
22 which to receive firm bids?  
23 A. No.  
24 Q. Why not?  
25 A. Never were intended to be because

0037

1 you have to have what in the trade is called a  
2 working drawing before a contractor will put a  
3 firm bid out.  
4 Q. And when did you expect to get your  
5 working drawings done?  
6 A. In March of '04.  
7 Q. And why did you pick March of '04?  
8 A. It was just we got with USDA in  
9 February and the working drawings were going to  
10 come after that and that was a reasonable period  
11 of time.  
12 Q. You presented those final layouts to  
13 the USDA, did you not?  
14 A. We went for a review.  
15 Q. And who did you meet?  
16 A. There were two, Ranae Larson who's a  
17 doctor of veterinary medicine who's, I think her  
18 title a supervisor, and one other person in the  
19 plant which is south of Detroit Lakes --  
20 Q. Pelican Rapids?  
21 A. Pelican Rapids. Okay. And then  
22 Cameron and Trudy's employee whose name I can't  
23 recall.  
24 Q. And what did you present to the,  
25 these officials?

0038

1 A. What we had always called a  
2 standardized set of USDA drawings as though we  
3 were going for a submittal for approval.  
4 Q. And those documents that we have in  
5 here?  
6 A. I think you should have a copy of  
7 that.  
8 Q. So that would be the preworking  
9 drawings, is that correct?  
10 A. That would be a good description.  
11 Q. And what did they tell you?  
12 A. They wanted one room moved in the  
13 drawings. They didn't like where we had put the  
14 wrapping room in the plant and they wanted it  
15 out of the traffic area and that, the reason  
16 that we did the review is because each area of  
17 the country USDA will have a different opinion  
18 and we had finished a plant not too many years  
19 ago that we used that exact layout for the  
20 wrapping and it was fine with USDA, up here it  
21 wasn't. So you don't argue about small things.  
22 If you had finished all the drawings, it would  
23 have been a much bigger deal.  
24 Q. Was that the only question or  
25 complaint they had?

0039

1 A. As far as I know.  
2 Q. As far as you know then. With that  
3 change they would have approved the design and



bowlin

4 layout of that plant?

5 A. They would never approve it, nor  
6 would they condemn it.

7 Q. Well, go ahead.

8 A. They, they by law will not approve  
9 or disapprove a plant. They will approve a  
10 plant for operation after it's constructed.

11 Q. So this review that you had with  
12 them, is it a courtesy?

13 A. It's a courtesy.

14 Q. And they don't have the ability to  
15 tell you what to do, they have the ability to  
16 suggest?

17 A. They can suggest. They didn't like  
18 this and you ought to consider changing it I  
19 think is the wording they probably typically  
20 use.

21 Q. That was the only comment they had?

22 A. Right.

23 Q. As far as your layout was concerned,  
24 they were satisfied that that was --

25 A. Made no comments to me. Our set of

0040

1 drawings gave the flow, the kind of things that  
2 were required when the USDA did approve drawings  
3 so we included all of that. In the days past  
4 they wanted to see the plumbing for drainage and  
5 venting, they wanted to see the flow, they  
6 wanted to see elevations, type materials, that  
7 was all included in your set of drawings.

8 Q. And the layouts?

9 A. The layouts with all the equipment  
10 in it.

11 Q. As I recall looking at those  
12 layouts, there is sketching of plumbing,  
13 lighting, that kind of --

14 A. Right.

15 Q. And in your practice that was  
16 typically the approach that you took from the  
17 layouts prior to beginning work?

18 A. Right.

19 Q. And so --

20 A. We, we had made the first set of  
21 drawings for a small meat plant that was  
22 approved by USDA back in 1971 and all the  
23 subsequent work was kind of a copy of those  
24 requirements.

25 Q. Okay. So you were going to commence

0041

1 working drawings 13 months after you thought you  
2 had a contract?

3 A. Right.

4 Q. Did you ever start doing it?

5 A. No.

6 Q. And you said that, I believe, that  
7 my clients had advised you not to do anything  
8 further?

9 A. Right.

10 Q. What did they tell you?

11 A. Got a call and they told me to stop  
12 work and some other things that I don't recall.

13 Q. Did you ask them why?

14 A. Yeah. I don't recall the rest of

Page 17

EXHIBIT 5

bowlin

15 the conversation, but I do remember the don't do  
16 anymore work on the project.

17 Q. You must have been curious as to  
18 what's going on.

19 A. I was. They may have told me they  
20 were talking to a contractor which wasn't all  
21 bad. But in any case working drawings had to be  
22 completed and I think in the letter I wrote Dale  
23 Hetland, I think that letter is in the file in  
24 there, that maybe Briards wanted to have a  
25 contractor do the job, that might be a good

0042

1 thing. But in any case either he or we had to  
2 finish the working drawings, and at that point I  
3 assumed that it was a building contractor.

4 Q. That they'd hired?

5 A. Or were talking about it.

6 Q. Okay.

7 A. I mean, I don't know what the status  
8 was at that point. But I did recommend in my  
9 letter to Mr. Hetland that I was comfortable  
10 with the estimates on the job and that I thought  
11 it should proceed. It could be billed within  
12 the budget.

13 Q. Do you recall at this time what the  
14 estimates were?

15 A. I think memory serves me right, it  
16 was around 827 or 818, 818,000 somewhere in that  
17 neighborhood. I think there is what, a little  
18 contingency in there. And I think the budget  
19 was probably 800,000. Typically once you get  
20 working drawings, so will your estimates will  
21 come down.

22 Q. You met with subcontractors I think  
23 you testified?

24 A. Yes.

25 Q. Did any subcontractors ever tell you

0043

1 that your layouts were not sufficient to provide  
2 even a reasonable estimate upon?

3 A. I know one did.

4 Q. Who was that?

5 A. I can't remember because they were,  
6 there were four or five there that they and -- I  
7 don't remember if it was the concrete man or the  
8 block man, the electrical and there was a  
9 plumber involved and essentially went where he  
10 was, and we had another one and he was  
11 uncomfortable coming up with estimates because  
12 he didn't have drawings at that point and we  
13 eventually made the layouts which went to part  
14 of the USDA package, which would have been  
15 sufficient for him.

16 Q. Did he say that?

17 A. The new plumber told me that he  
18 wasn't comfortable in an industrial plant.

19 Q. Under any circumstances?

20 A. That's what I heard him say.

21 Q. So what did that mean to you?

22 A. That a judgement he probably didn't  
23 have the experience. But once, I have worked  
24 with people like that before and they've done a  
25 very, very good job once you take the fear

bowlin

0044

1 factor out of what they were doing which was  
2 part of my job.

3 Q. Did you meet with him subsequently  
4 and dissuade his fears?

5 A. I talked to him on the telephone I  
6 think a couple times. I don't think I met with  
7 him again.

8 Q. Did you calm him down?

9 A. He seemed to be fine.

10 Q. You thought he was going to  
11 continue?

12 A. I think so because he helped on some  
13 of the estimates and then I helped on the other  
14 stuff. Some of these people are not familiar  
15 with the equipment that goes into a meat plant  
16 and they're uneasy on giving estimates on that  
17 portion of it.

18 Q. They weren't bidding on the  
19 equipment?

20 A. Well, the parts of the equipment in  
21 their piece of it, like some of the plumbing  
22 equipment.

23 Q. Did you have a firm, did you seek  
24 bids from more than one contractor on any aspect  
25 of the subcontracting?

0045

1 A. Only refrigeration, had two people  
2 because that was a design build or would have  
3 been a design build contract. We sent the  
4 programmers and there were two in Fargo we got  
5 prices from. Ultimately one plumber because in,  
6 typically in my experience of building these you  
7 don't go out for bids for multiple contracts,  
8 you get people that you're comfortable with and  
9 you get estimates together and some cases firm  
10 bids. Cooler panels and refrigeration, we've  
11 always demanded firm bids.

12 Q. Did you seek those bids?

13 A. Oh, yeah.

14 Q. You got bids?

15 A. Got bids on those.

16 Q. Is that in the file?

17 A. I think it will be. I know the  
18 refrigeration is.

19 Q. What about these panels, are they  
20 insulated panels?

21 A. Right.

22 Q. And you believe you got firm bids on  
23 those?

24 A. Right. I got bids from one type of  
25 panel which is made by a nationwide company but

0046

1 their plant is down near us in Texas, and  
2 another company is in southern Minnesota.

3 Q. Did you give those bids to my  
4 clients?

5 A. I don't, I don't remember. They had  
6 the numbers off of them but I don't know. I  
7 probably did at that point.

8 Q. Now you met once or more with Dale  
9 Hetland from Northwestern Bank?

10 A. Right.

bowlin

11 Q. What did you tell him?

12 A. Dale would like to have had firm  
13 bids on the estimates and I couldn't give firm  
14 bids because we hadn't done the working drawings  
15 and gotten them. One of the major reasons was I  
16 hadn't been paid anything where I could spend  
17 that much more money back, and this would have  
18 been back in June of '03 when we were furnishing  
19 estimates. And I appreciated what he needed but  
20 I wasn't in a position to give any more than  
21 estimates based on past experience and in  
22 talking to the people who were probably going to  
23 do the work.

24 Q. Did you tell Dale that you needed  
25 money to continue?

0047

1 A. I don't remember if we talked --  
2 there was a conversation once or twice. I don't  
3 remember. I really don't remember. I never did  
4 write any letters, no.

5 Q. Did you ever tell my clients that  
6 you needed money?

7 A. We, we had talked about it. And  
8 this was a stretch for them and so I guess I saw  
9 myself as trying to be the good guy and help a  
10 young couple get a plant put together.

11 Q. Did you ever tell them you needed  
12 money?

13 A. I probably didn't because I knew how  
14 tight it was. We had all talked that over.

15 Q. Is it in your business, in your  
16 practice, was this a typical approach that you  
17 took to people wanting meat plants and was this  
18 a typical experience for you from the standpoint  
19 of time that was involved?

20 A. This one was longer because we had  
21 that six-month period in the last half of 2003  
22 that it took to get the loans approved. It took  
23 a lot longer time it appeared to me to get that  
24 portion of it done.

25 Q. And in your experience you would

0048

1 have expected Dale Hetland, the SBA, West  
2 Central Initiative, to approve loans without  
3 estimates, working drawings, subcontracts in  
4 place?

5 A. And this type of project I think  
6 they would have had to do that. I have done it  
7 before.

8 Q. Had to do what?

9 A. Take a knowledgeable estimate of the  
10 plant.

11 Q. Without working drawings?

12 A. Right.

13 Q. Without bids?

14 A. Yes.

15 Q. You had done that before?

16 A. Yes.

17 Q. You think that may be typical in  
18 your business?

19 A. It was the way that we built and  
20 helped people build meat plants.

21 Q. Do you know if that's typically the

bowlin

22 way they do it in Minnesota?

23 A. I have no idea.

24 Q. Have you ever checked with Jerry

25 Zuger about how they do it in Minnesota?

0049  
1 A. No. His work is typically in the  
2 public arena and it's a very formal process  
3 where they're paid for their architectural work  
4 and they go out and get bids and if the bids  
5 don't come in right, they get paid anyway and  
6 the work is prearranged.

7 Q. And he does work other than in the  
8 public arena, his firm?

9 A. They did some.

10 Q. Typical architectural firm in a  
11 medium sized town in Minnesota, does some  
12 housing, does some commercial work, does some  
13 government work?

14 A. They didn't, they didn't do much of  
15 that. They tried to arrange partial payments as  
16 you went.

17 Q. When did you tell my clients that  
18 you were working with Jerry Zuger and Mr.  
19 Blahut?

20 A. I don't, I really don't recall.

21 Q. Do you recall whether you did or  
22 not?

23 A. I might not have by name, but I did,  
24 I did comment that we had to have Minnesota  
25 engineers involved. Architects weren't

0050

1 required.

2 Q. Did you tell Mr. Blahut and Mr.  
3 Zuger that they might have to do this on the  
4 come so to speak?

5 A. No. Because at that point except  
6 for the work that I had to do with Blahut, all  
7 of their major work would have been done after  
8 the approvals.

9 Q. Approval of what?

10 A. Of the project by the bank, then we  
11 would have drawn money to pay all of this.

12 Q. When did you receive the bank's  
13 approval?

14 A. I got a call from, I think, Cameron  
15 in November, I was on the east coast, saying  
16 that they had gotten the approval to proceed  
17 with the project and that meant that I had to  
18 get with them and establish the final layout.  
19 We had been through about six redesigns and  
20 established the final layout and then as we  
21 talked earlier the next, get the final layout,  
22 then go to the USDA, then do working drawings,  
23 otherwise we would have been doing the working  
24 drawings more than once.

25 Q. When you say them, you'd have to get

0051

1 with them, you mean Zuger and Blahut?

2 A. I'm not clear.

3 Q. Them being Briards to establish the  
4 final layout? So you were then planning to meet  
5 again with the Briards, not the architects, not  
6 the engineer, not the banker?

bowlin

7 A. No.

8 Q. What was the purpose in meeting with  
9 the Briards again?

10 A. We had to establish the final layout  
11 that the plant was going to, the configuration  
12 of the plant and quit changing it.

13 Q. When did you get that approval?

14 A. We did that in December and then I  
15 went back and started making that change and  
16 then made the USDA drawings and then came back  
17 in February and met with USDA and with Cameron  
18 and Trudy.

19 Q. Okay. I assume that you received  
20 the word from Cameron Briard in November that  
21 the bank loan had been approved?

22 A. Right.

23 Q. I assume then you immediately  
24 contacted Jerry Zuger and Mr. Blahut and said  
25 go --

0052.

1 A. No.

2 Q. Start drawing?

3 A. No.

4 Q. Why not?

5 A. I didn't have the final layout.  
6 They were not to be doing any other work until  
7 the layout was done and USDA's review was  
8 completed.

9 Q. When was the USDA review?

10 A. In February.

11 Q. Did you then call them and say go?

12 A. No. I had one more correction for  
13 the USDA and then I got a call from Cameron to  
14 stop the project before I got to the point of  
15 releasing Zuger and Blahut.

16 Q. When was that?

17 A. I would have come back to Minnesota  
18 in March.

19 Q. What was that change that you just  
20 mentioned?

21 A. That was where the USDA requested  
22 that we move the wrapping room and get it out of  
23 the aisle. I never did make that change on the  
24 drawings.

25 Q. When was your USDA meeting again?

0053

1 A. In February.

2 Q. The drawings that we have that you  
3 prepared, who actually prepared those drawings?

4 A. I did.

5 Q. You did those in Texas?

6 A. Right.

7 Q. And subsequently whatever changes  
8 were made except those that appear in  
9 handwriting, you made all those?

10 A. I made them.

11 Q. Okay. Take a five minute break.  
12 Going about an hour. You need a break? Up to  
13 you. I'm still okay.

14 (Recess taken.)

15 Q. You told us about something that you  
16 needed a gap between the buildings for the snow  
17 load, do you recall that?

bowlin

18 A. Yes.  
19 Q. Did that, was that the advice of the  
20 engineer, Blahut?  
21 A. Yes.  
22 Q. That you'd need?  
23 A. We knew that we needed a gap because  
24 of the foundations but we needed a bigger gap  
25 because of the snow load calculations.

0054

1 Q. Now you say because of the  
2 foundations, you mean because of the way the  
3 foundations and footings were designed  
4 engineeringwise?

5 A. Right. In the existing building.  
6 You know, the building wall is here and the  
7 foundation is spread out so you're going to put  
8 another foundation, you have got to spread out  
9 beyond that distance.

10 Q. Blahut advised you that would have  
11 to be done?

12 A. No. He -- yes. Yes.

13 Q. Do you recall when Dale Hetland met  
14 with you and asked you to provide a sworn  
15 construction statement?

16 A. No.

17 Q. You don't know what that is?

18 A. I guess I'm not sure.

19 Q. Okay. You don't call it that?

20 A. No.

21 Q. I have in front of me a letter that  
22 you wrote to a Bruce Koons who's a lawyer  
23 representing the Briards back in May of 2004 and  
24 ask you, I'm not going to mark this right now,  
25 we'll do that later. Do you recognize that

0055

1 letter?

2 A. Yes, I do.

3 Q. You wrote that in response to a  
4 letter that he had written you?

5 A. Right.

6 Q. Just hang on to that. You say in  
7 paragraph 4 quote "The Briards hired me to serve  
8 as their project developer" unquote. What's a  
9 project developer?

10 A. To me that is an individual or  
11 company who takes the dream of, in this case a  
12 meat plant, and kind of is a facilitator on  
13 getting the project put together, estimated,  
14 help loan approval, help with construction and  
15 make it a reality.

16 Q. In the next and succeeding sentences  
17 you state quote, "We helped with the location,  
18 marketing potential, plant requirement, USDA  
19 requirements and designs for a plant that  
20 included future expansion capability." Does  
21 that say it all?

22 A. That's pretty good.

23 Q. That's what you recall?

24 A. Yes.

25 Q. Is it your recollection, Mr. Bowlin,

0056

1 that those duties and responsibilities were the  
2 responsibilities and duties agreed to my clients

bowlin

3 when you reached an oral contract with them in  
4 February of '03?

5 A. I think so.

6 Q. Did you tell them you were going to  
7 be a quote, "project developer?"

8 A. I don't know if I used that word or  
9 not. We probably didn't at that point call it a  
10 project.

11 Q. When did you come up with this  
12 concept of a project developer?

13 A. It may have been a word I used in  
14 this letter. It may have been one we used prior  
15 to that. I don't recall. I was, I was, this  
16 was the first time that I sat down and wrote  
17 this kind of a description of what I saw that we  
18 had been doing.

19 Q. So you came up with this description  
20 after Briards hired somebody else and your  
21 reflecting upon what you thought your role was,  
22 is that it?

23 A. Some could have been in because in  
24 the second sentence is the part that we were, we  
25 had actually been doing. So that was just a

0057

1 statement of, you know, when we said we had  
2 helped with the location, we had done that.

3 Q. But the location was already there,  
4 right?

5 A. Not when I got started, this was  
6 going to be a stand alone facility and then the  
7 bank and the mayor I think had this building,  
8 and Cameron called to see if we could possibly  
9 use that. They wanted to see if they could  
10 resurrect it. It was personally vacant in Ulen  
11 so we were involved with helping with the  
12 location, you know, as to whether it would be  
13 financially, I guess, imprudent to rebuild the  
14 building because it would be, you know, my cost  
15 would be much higher, some of the bidding costs  
16 would be much higher but it got into the  
17 marketing and I felt like a building within the  
18 town proper from a financial point would be  
19 better for Briards and for the bank.

20 Q. Did you actually inspect that other  
21 building?

22 A. Yes.

23 Q. You made a physical inspection?

24 A. Right. Just to be sure what the  
25 space might be like and to see if we could

0058

1 actually fit a meat plant into that facility  
2 that would be a viable plant that they could  
3 make money on and it turned out with, which, by  
4 the way, one of the reasons that it took so much  
5 time to get the design work done. A stand alone  
6 is quite an easy thing to do. You know, it's a  
7 rectangular building that you divide up into  
8 rooms. This one was a predone building with  
9 some very low ceilings that we had to work to  
10 see if we could fit this project into that.

11 Q. Did you do any engineering work with  
12 respect to that building whether it was  
13 structurally competent for any purpose like



bowlin

14 that?

15 A. We had reviewed and, since we  
16 weren't suspending anything from the building, I  
17 didn't worry about the roof load but we did, I  
18 did have Cameron pull some sheet metal off to  
19 get a description of what the building was built  
20 like. We knew we couldn't hang anything from  
21 it, or we thought we couldn't hang anything from  
22 it, and so we did a review of the structure a  
23 little bit. We needed to know enough so we  
24 could penetrate the walls without the building  
25 coming down, how would we reinforce it. So,

0059

1 yes, we did that part of the work and in the  
2 working drawings all of that work would have  
3 been defined, you know, that's part of what  
4 working drawings do is define that work so it's  
5 done not with a wave of a hand to a carpenter.

6 Q. How much time did you spend on  
7 evaluating the value of that existing building?

8 A. One trip to look at it and then I  
9 spent several days trying to get layouts  
10 together that would fit in, so it would have  
11 been probably more than two or three weeks. It  
12 took a long time.

13 Q. Did you draw --

14 A. I made a lot of sketches.

15 Q. Of that building?

16 A. Yes.

17 Q. Where are those sketches?

18 A. Most of them are copies that are in  
19 the other room in there. We can pick those out.

20 Q. What's your hourly rate?

21 A. It, I think in this I was figuring

22 150.

23 Q. Okay. So several weeks what are you  
24 thinking 80, a thousand, something like that?

25 A. Something less than that.

0060

1 Q. Is that part of your claim here?

2 A. Yes.

3 Q. Okay.

4 A. That was the work, did all that in

5 Texas.

6 Q. So applying say a hundred hours to  
7 your hourly rate, we are talking about \$15,000  
8 of your claim?

9 A. It could be something less than  
10 that.

11 Q. When are you going to figure out  
12 what that's going to be?

13 MR. CORWIN: I don't understand what  
14 you're saying.

15 Q. I assume you're going to come up  
16 with a breakdown of that claim you're making  
17 here and it's constituent parts?

18 A. I suppose I can try.

19 Q. Well, I assume at some point in the  
20 process you will do that so that we know what  
21 you're claiming.

22 MR. CORWIN: We will, you're right.  
23 We will have to do that at some point.

24 MR. STEFANSON: Likewise, my clients

Page 25

EXHIBIT 5

bowlin

25 are looking at their counterclaim and we will  
0061  
1 provide that as time goes by. I would expect  
2 that would be --  
3 A. That's not something that would be,  
4 I don't think, easy today unless the time log in  
5 the other room may have some of that.  
6 MR. CORWIN: We can't do it today.  
7 MR. STEFANSON: That's fine.  
8 THE WITNESS: Probably not.  
9 MR. STEFANSON: That's fine.  
10 Q. Okay. So you did some work on the  
11 location, marketing potential. What did you do  
12 for marketing?  
13 A. Just as an aside, conversations,  
14 those were opinions that I had about, you know,  
15 what the location might do to affect them, you  
16 know, whether being in the country or in the  
17 town of Ulen, how maybe to broaden their  
18 business, you know, based on some of these other  
19 plants that we've done, you know, in their  
20 relationship to Fargo-Moorhead and some of it  
21 too, I think maybe to satisfy myself that this  
22 would be a good, viable, profitable facility.  
23 Q. Did you offer them anything specific  
24 in any written materials on marketing?  
25 A. No.  
0062  
1 Q. Have you ever done any marketing for  
2 a meat processing plant?  
3 A. Only through assimilation from other  
4 plants that we've worked with. The last one we  
5 built, the fellow was a master at marketing and  
6 he had even offered to come up here at one time  
7 after the plant was built and get with Briards  
8 and offer his --  
9 Q. Who was that?  
10 A. John Fisher.  
11 Q. Wasn't Jimmy Dean?  
12 A. No. No. It was a plant that we had  
13 done in the late '90's.  
14 Q. You talk to Mr. Fisher about that?  
15 A. Right. Right. We've ended up,  
16 we're quite good friends and he was going to do  
17 it as a favor.  
18 Q. The plant requirements, I think  
19 we've talked about that, we're talking about  
20 design there?  
21 A. Right.  
22 Q. Bank requirements?  
23 A. That would be estimates.  
24 Q. USDA requirements, nothing further  
25 to add to that?  
0063  
1 A. No.  
2 Q. And future expansion?  
3 A. That, when we have done a plant,  
4 especially one that costs this much money, you  
5 can do a design that if the plant does double or  
6 triple in size that you don't have to destroy  
7 what you've already done to add onto it and that  
8 was one of my inside goals as part of our design  
9 was to make sure that this plant would not be

bowlin

10 outdated. And from a bank's point I've always  
11 considered that very important.

12 Q. Who besides yourself, Mr. Zuger, Mr.  
13 Blahut or anybody associated with them, who to  
14 your knowledge has any information regarding  
15 your claim who might be witnesses in this case?

16 A. I don't know of anyone.

17 Q. So you and those two would be the  
18 principals?

19 A. I think so.

20 Q. Do you contend that during the  
21 course of all, of this what, 17, 18 months that  
22 this took place that you kept my clients fully  
23 advised as to what was happening on your end?

24 A. I thought I did. The principal  
25 period of no activity I know I was fairly

0064  
1 specific on that and that was that last half of  
2 2003 when I told them that, you know, I was not  
3 going to spend any more money and run you up a  
4 bill until the loan got approved.

5 Q. Did you tell that to Dale Hetland?

6 A. I don't remember.

7 Q. What was their response when you  
8 told them that?

9 A. Seemed like it was fine. They  
10 didn't want me spending a lot of money, you  
11 know, redoing and redoing if the project might  
12 not go through.

13 Q. Let me ask you this: Do you recall  
14 at the time that you told them that you weren't  
15 going to spend any more money that they or  
16 anybody else said to you well, we're going to  
17 have to have working drawings, firm bids, a  
18 price that we can depend on in order to borrow  
19 money from the bank, anybody ever tell you that?

20 A. I don't recall a conversation like  
21 that. I know Mr. Hetland would like to have  
22 had, in fact told me that he really wanted firm  
23 bids and I think, I think I probably told him  
24 that I couldn't do that because, you know, it  
25 wasn't far enough along with the drawings. What

0065  
1 you don't want to do in one of these plants is  
2 make a series of drawings and then make them all  
3 over again. That gets expensive.

4 Q. Well, I can assume then that it was  
5 your opinion that based upon the events that  
6 occurred up to that point in mid 2003 that you  
7 clearly advised the principals, Hetland, the  
8 Briards, that you'd done everything you could do  
9 until the loan was solid?

10 A. Right. Everything that I felt like  
11 I should do.

12 Q. And in your practice that is the  
13 typical way that events occur in order?

14 A. In the meat plants that I've done  
15 that has been very, very typical.

16 Q. Okay. Did you ever discuss -- now  
17 I assume that if you had, could convince the  
18 bank and the other lenders to approve a loan for  
19 some amount, that you would then have gone out  
20 and said okay, we've got \$800,000, now, Mr.

bowlin

21 zuger, you draw us a set of working drawings,  
22 you work with Mr. Blahut, engineer the thing,  
23 that they would have done that?

24 A. Right.

25 Q. And then when you got the working

0066

1 drawings then you would have taken them and  
2 given them to the carpenters, general  
3 contractor, whoever that was, the plumber, the  
4 electrician, the concrete guys and give us firm  
5 estimates on it?

6 A. I could have and we probably even  
7 then would not have gotten them all to give firm  
8 estimates. We would have done some of it on a  
9 cost plus basis.

10 Q. You would have gotten bids from  
11 them, estimates are gone now, you're into the  
12 bidding process?

13 A. We would have confirmed the  
14 critical, what I consider the critical  
15 subcontractors that I've had problems in the  
16 past, concrete, refrigeration, panels because  
17 those people notoriously, at least in my feeling  
18 like to change numbers.

19 Q. Did you consider yourself to be a  
20 general contractor here?

21 A. No.

22 Q. Who was the general contractor?

23 A. The Briards would have been.

24 Q. I see. Did you feel that they were  
25 competent by way of experience and training to

0067

1 be a general contractor?

2 A. I think they would have done just  
3 fine.

4 Q. What do you base that on?

5 A. Just on some other meat plants that,  
6 you know, people that are in the meat plant  
7 business or around meat plants aren't  
8 necessarily perfect at building but I have  
9 always found them completely capable of  
10 following the job along and if the  
11 sub-contractors are there, I've not had a  
12 problem. I've built these plants with home  
13 builders.

14 Q. And did you expect them then as the  
15 general contractor to be the project manager?

16 A. They would have helped, I would have  
17 helped. If a project manager is on site  
18 everyday, they would have done more of that than  
19 I was. I would have been in and out. Like I  
20 said earlier, I think, probably five trips.

21 Q. How many trips did you actually make  
22 up there?

23 A. It's logged on sheets in there and  
24 I'd, that's in the other room. I think it was,  
25 I don't know six or nine or somewhere in there.

0068

1 You may have something. I do have a log in the  
2 other room that says when I was there. I doubt  
3 if there is anything here.

4 Q. Now you put together from time to  
5 time some cost estimates as I recall?

bowlin

6 A. Right.

7 Q. What did you base those on?

8 A. Some of it was major things were  
9 bids that I had gotten, refrigeration, cooler  
10 panels, talking to the electrical, who was going  
11 to be the electrical sub, he was quite firm. We  
12 had firm pricing on lighting, we had carpentry,  
13 we did demolition, we did, because those were  
14 not major pieces but they were inconvenience,  
15 you know, they all wanted more drawings. We did  
16 do a demolition drawing showing where the floor  
17 had to be pulled out. Cameron and I think his  
18 brother maybe had come up with an estimate to  
19 pull the concrete out and, you know, door  
20 openings and that sort of thing, I did that  
21 because we didn't have quote working drawings  
22 and that's the kind of thing that would be  
23 spelled out. We feel like we covered all of the  
24 costs that would have been incurred. They had a  
25 good concrete man, really good electrician. The

0069

1 two refrigeration companies over here are quite  
2 capable and they both gave firm bids, and the  
3 only thing that would have changed would have  
4 been sizes and we had done our own sizing, you  
5 know, horsepower capacity and they did also and  
6 we all had the same answers.

7 Q. How much of the equipment to go in  
8 this building did you plan on providing from  
9 your company?

10 A. Only the equipment. The only thing  
11 that we were taking a profit on was the  
12 equipment that we were building. We had  
13 arranged, and there were two or three companies  
14 that I could not get decent prices unless we  
15 bought it direct. But it was a small amount of  
16 stuff. A great portion of the major equipment  
17 would have been bought direct. We set it up.  
18 For instance, a smoke house was a fairly  
19 expensive thing and that would have been a  
20 direct buy because I told, I don't think I was  
21 out of order, I told the people when they were  
22 giving prices to give us the best price that  
23 they could because the second that they ship  
24 material we could get money released from the  
25 bank and Briards and I had agreed that we would

0070

1 both sign off on all of the payments so I  
2 wouldn't spend money, nor would they unless we  
3 both agreed on it.

4 Q. Why was it necessary for you to sign  
5 off?

6 A. Just to monitor the progress in it,  
7 make sure it didn't get diverted.

8 Q. To where?

9 A. Not diverted personally but just out  
10 of order. Just diverted to doing this.

11 Q. You mean the money get diverted?

12 A. Yeah. Still within the project but  
13 just maybe not where I felt it should be going  
14 right then.

15 Q. You ever serve in that capacity  
16 before as a project manager?

bowlin

17 A. Yeah.  
18 Q. Control the money of the bank?  
19 A. I basically did with the Fisher's  
20 plant in the Muenster plant. I didn't write any  
21 of the checks but --  
22 Q. You know if Dale Hetland expected  
23 you to sign off on everything?  
24 A. I have no idea.  
25 Q. Did you discuss it with him?

0071

1 A. I don't remember.  
2 Q. Now just to get back to the USDA for  
3 a bit, the USDA has requirements for these  
4 plants, do they not?  
5 A. They do.  
6 Q. And those requirements are firm?  
7 A. They're, there are a few of them  
8 that are very firm. There used to be way more.  
9 Q. And by firm I mean some USDA  
10 official or inspector has to literally approve?  
11 A. The plant.  
12 Q. The plant?  
13 A. Right.  
14 Q. And unless that happens, the plant  
15 doesn't operate?  
16 A. That's right.  
17 Q. I think your prior testimony was  
18 that the, in your opinion that approval would  
19 come when the factory was built and in place?  
20 A. That's the only way they do it now.  
21 Q. Is that the only way they did it in  
22 2003?

23 A. Yes.  
24 Q. So you took your chances. You had  
25 the drawings done and they might want to look at  
0072

1 them and you go ahead and built it and you take  
2 your chances that they make you change  
3 something, is that your testimony?  
4 A. That's exactly the way. I disagree  
5 with their way of doing it but that's what they  
6 do now.

7 Q. Okay. Is it your opinion, Mr.  
8 Bowlin, that the drawings, the preliminary  
9 drawings you prepared were drawn in a way that  
10 would have met the USDA requirements but for  
11 things like moving a room from one place to  
12 another place?

13 A. I think they would have been  
14 complete in every way.

15 Q. Okay. The drawings that you  
16 prepared, did you prepare them in accordance  
17 with the Minnesota building codes, local and  
18 state building codes?

19 A. Only as regarded the structural  
20 building code that we've talked about on the  
21 distance between the, they were, they met the  
22 handicap rules, they would have had to go to St.  
23 Paul for handicap approval. The working  
24 drawings or the portion of it that makes sure  
25 that all of the other code items are adhered to,

0073

1 the electricians and the plumbers have their own

2 codes and they're responsible for meeting  
3 those. The drawings are not.

4 Q. So as far as you knew the codes such  
5 as they were at the time were complied with?

6 A. Yes. Were or would be.

7 Q. Were you familiar with the Minnesota  
8 bidding codes?

9 A. Somewhat.

10 Q. Did you review them?

11 A. Only in the past work of working  
12 with the architecture firm. It's, it's a  
13 uniform building code and it's the same in  
14 almost all states.

15 Q. Which building code was in effect in  
16 Minnesota at that time?

17 A. It started out I think the uniform  
18 and then I know structurally changed and I  
19 wasn't aware of that but the structural people  
20 were and the Minnesota plumbing code changed in  
21 the middle of this job and required some extra  
22 work.

23 Q. Who caught that?

24 A. I don't remember. They all seemed  
25 to be aware of it. That was in the summer when

0074  
1 I was not active on the job. It occurred  
2 probably in September seemed like.

3 Q. Now you wrote Bruce Koons this  
4 letter on May 15th, 2004 that you have in front  
5 of you and in the second to the last paragraph  
6 on the last page you say quote, "We repeat our  
7 request that the Briards pay Bowlin Engineering  
8 the total sum of \$25,000 for the valuable  
9 services rendered on this project." When did  
10 your sum change?

11 A. This number. This letter is written  
12 with now history, but in February and then I  
13 think maybe in March the letter that I wrote to  
14 Dale Hetland listed the 25,000 and in the  
15 progress of the job, as soon as the loan was  
16 approved we would have drawn 25,000. That  
17 wasn't all the estimates. We had engineering of  
18 some 39,000, the working drawings weren't  
19 finished and that was about 10,000 of the  
20 amount.

21 Q. But you're making a demand here in  
22 May after two months after your discharge for  
23 25,000, right, total?

24 A. I, it sounds like it. That wasn't  
25 our cost.

0075  
1 Q. But that's your demand. That's your  
2 request?

3 MR. CORWIN: For the record, I think  
4 your mischaracterizing the letter. I have read  
5 that obviously and the way I read it it's an  
6 offer of compromise.

7 MR. STEFANSON: Well, that ain't what  
8 it says, Wick. Nevertheless, I'm not going to  
9 argue with you, Wick, I just want to, it's his  
10 words and he wrote it. The word total payment  
11 there.

12 A. That's what it says.

bowlin

Q. I don't see anything about compromise, do you?

A. No. It doesn't say that.

Q. Was this an offer of compromise as your lawyer suggests?

A. You know, I don't know. Bad answer. I don't really think it is or was. It was more of a picking up the number that I had written the bank and even though that's what it says, that's the total and I don't have a good answer for that. I really don't.

Q. Okay. That's fair. When you filed this lien, your claim is now up to 68,000?

A. Right.

Q. And today as we sit here you don't know how that 68,000 is put together, as I understand it. You're going to be working on that?

A. We've got, I think, probably half of it was expenses and half of it was labor and you've asked for a further breakdown of labor which we will, which we will do.

Q. Okay.

MR. STEFANSON: Tell you what I'm going to do, Wick, I'm going to recess this for now and we'll get this information from you and we'll go through the documents you've got and we'll come back and see you again, okay?

THE WITNESS: Fine.

MR. CORWIN: It's your deposition. That's fine.

MR. STEFANSON: You can say that again.

MR. CORWIN: Off the record.

(This deposition was concluded at 11:30 a.m.)

NOTARY REPORTER'S CERTIFICATE

STATE OF NORTH DAKOTA

COUNTY OF CASS

I, Douglas T. Ketcham, a Notary Public within and for the County of Cass and State of North Dakota do hereby certify: That prior to being examined the afore-named witness was by me sworn to testify the truth, the whole truth, and nothing but the truth.

That said deposition, consisting of seventy-six (76) pages of typewritten materials, was taken down by me in Stenotype at the time and place therein named, and was thereafter reduced to typewriting under my direction.

I further certify that I am neither related to any of the parties or counsel nor interested in this matter directly or indirectly.

WITNESS my hand and seal this 26th day of September, 2005.

Douglas T. Ketcham  
Notary Public  
Fargo, North Dakota  
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EXHIBIT 5



23 My commission expires June 27, 2008. bowlin  
24  
25

# **BOWLIN** Engineering Co. COPY 13

600 BURLINGTON ROAD ★ FORT WORTH, TEXAS 76179-1310 ★ 817/232-2020 ★ FAX 817/232-4081  
website: [www.bowlinengineering.com](http://www.bowlinengineering.com) ★ email: [paul@bowlinengineering.com](mailto:paul@bowlinengineering.com)

May 15, 2004

Bruce A. Kunz, Attorney  
Kunz Law Office  
800 West Main  
Perham, MN 56573 FAX 218-346-4647

*Re: Statement for Services to Cameron and Trudy Briard*

Dear Mr. Kunz:

Thank you for giving us the opportunity to describe our involvement with the Cameron Briard project called Ulen Locker or Ulen Meat Co. ("Project"). I write to provide you with documents and information supporting our statement for services rendered to the Briards on the Project so that we may obtain payment for those services.

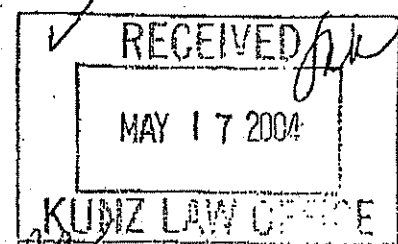
Our involvement on the Project started in January '03 when the Briards asked me to help with design, costing and construction of a new meat plant in Ulen, MN. Originally, before the Briards hired me, the Briard's plan was to design and build a very small, self-contained plant located on a rural site. Cameron attempted to put together a feasible design and cost estimate but he did not have the background or time to complete successfully. In January 2003, they asked me to help. I started working for them.

We did not obtain a written contract for services on the Project signed by the Briards, as we customarily do not require such written contracts. We did provide several estimates of costs to the Briards, which cost estimates included fees for services.

The Briards hired me to serve as their project developer. We helped with location, marketing potential, plant requirements, bank requirements, USDA requirements and designs for a plant that included future expansion capability. The original building plan did not include expansion capability even though there was plenty of land available. The Briard's would have had difficulty expanding to meet any increase in market demand. Historically, securing additional financing to expand meat plants is difficult, if not impossible, until the plant has proven viability.

Since almost 100 % of the money was coming from bank and/or SBA loans, as project developer, we were involved with the banks from the start in order to assist the Briards in obtaining financing. We have considerable experience in this regard, which I believe was very helpful on this Project and valuable to the Briards. You will see that the bank financing included line items for our services.

**EXHIBIT 6** MATERIAL HANDLING SYSTEMS



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Bruce A. Kunz, Attorney

May 15, 2004

Page 2

During the spring of 2003, a building became available in the City of Ulen. The Briards asked me to incorporate this building into the Project, if possible. Analysis indicated that this building and location would enhance the payoff potential for the plant. This resulted in several major redesigns. After this major redesign (and several subsequent redesigns), we submitted an estimate in July 2003, which the Briards used for loan submittal.

Aside from one meeting in September 2003 with the bankers and SBA, we did not spend any more design or costing time from the July submittal until we were notified in November that the loan had been approved and we could proceed. Unfortunately, while waiting for the loan approval, in September '03 the State of Minnesota instituted a new set of requirements for structural design and plumbing submittals; these additions were included in the March cost estimates.

After two more redesigns, we prepared drawings for the USDA review. This was our final step prior to starting construction drawings.

In March 2004, we submitted cost estimates to both Cameron Briard and to Northwestern Bank indicating that we were comfortable with the design and costs and that we felt construction should proceed. Copies of those letters are enclosed for your review and files.

Through construction, all bills were to be approved by Briards and me before submitting to the bank for payment. The bank approved this process and required the detailed cost estimates before construction could begin. During this entire period, we served as project developer and were to become a project manager once construction commenced. Cameron and Trudy Briary were to serve as the general contractor.

Our payment for this work was to be a combination of fees listed and gross profit from manufactured products, which we were to furnish under the costs estimates provided to the Briards and the Bank. As in the initial stage of any development project of this type, our costs and expenses accumulated until funds were available for distribution.

The travel time on this Project is extensive. I made five trips from Ft. Worth to Ulen and nine Minnesota-based or Texas-based trips for this Project. Texas trip was to Muenster. Minnesota-based trips included day-trips and overnight stays to Ulen, Fargo, Pelican Rapids, Monticello and Medford.

Our designs were all performed in Texas. We retained two Minnesota firms for architecture and structural design support: Zuber-Baker Architects of Glenwood, MN, was providing required architectural services and ISS (Innovative Structural Solutions) of Monticello, MN, was handling all required building structural designs. All required licensure and bonding on the Project was incorporated in the Project.

**EXHIBIT 6**

Pg. 15

Bruce A. Kunz, Attorney  
May 15, 2004  
Page 3

Other companies expended time and money on the Project preparing design/build costs for their specialties—refrigeration, electrical, plumbing, concrete, general construction, refrigerated panels and doors.

Attached hereto as Exhibit A for your review and files is a list of the anticipated total return to Bowlin Engineering for the Project and an itemization of our actual costs and expenses through March 2004. There are smaller amounts on equipment that we would have had to order but the total for these items was to be under \$5,000.00.

As you know, the Briards changed their minds and decided to build the Project without additional involvement from me. The problem is that the Briards have not compensated us for all the work we put into the Project at their request. We made a one-time offer of a discounted fee in the amount of \$25,000. While we are still willing to negotiate the fee for services to resolve this matter amicably, the following represents a more accurate estimate of our actual costs.

**Total costs through March 2004:**

Drafting-Design (29,5 days)	\$ 35,400.00
Reproduction-Telephone-Postage	500.00

**Travel estimates:**

Five (5) Fort Worth to Ulen	23,250.00
February 2003	
April 2003	
May 2003	
December 2003	
February 2004	

Nine (9) Minnesota-based or Texas-based Trips	9,180.00
Fargo (2), Ulen (4), Monticello (1), Medford (1), Pelican Rapids (1)	
April 2003	
May 2003	
June 2003	
September 2003	
February 2004	

**Total Costs through March 2004**

**\$ 68,330.00**

**EXHIBIT 6**

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Bruce A. Kunz, Attorney

May 15, 2004

Page 4

As you can see, we have provided the Briards with considerable assistance on the Project and incurred considerable expense. Although we would have much preferred to continue participation on the Project, we are pleased to see that the Project is proceeding and that our assistance was helpful to the Briards with regard to concept, design, USDA approvals, bank financing and other matters.

We repeat our request that the Briards pay Bowlin Engineering the total sum of \$25,000.00 for the valuable services rendered on this Project. I firmly believe that the Project would not have happened without our assistance.

We would ask that you review this material and contact me directly with any questions or comments. The Briards have many other documents related to our involvement on the Project, which I trust that you will review. Please get back to me within 14 days. I look forward to hearing from you.

Sincerely,

Bowlin Engineering Co.

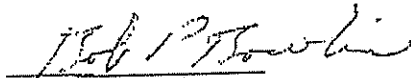
  
Bob P. Bowlin, Pres.

EXHIBIT 6

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## EXHIBIT A

## Total return:

Engineering and Design Fees:

\$39,800.00

Manufactured Equipment:

Beef kill pen	9,400.00
Hog pen	6,300.00
Hog-beef shackle	820.00
Sliding door	1,900.00
Inspection table	690.00
Head flush cabinet	2,040.00
Split platform	1,090.00
Skinning Cradles	1,160.00
Offal cart	4,000.00
I-beam	1,960.00
Rail bracket	650.00
200# Leland Southwest Mixer	9,600.00
1000# Leland Southwest Tumbler	19,600.00
Free Standing Rail System	<u>56,800.00</u>

Total Manufactured Equipment:

\$116,010.00

50% Gross Profit of Mfgr Equipment

\$58,005.00

Total Anticipated Return:

\$97,805.00

EXHIBIT 6

STATE OF MINNESOTA  
COUNTY OF CLAY

IN DISTRICT COURT  
SEVENTH JUDICIAL DISTRICT

Case Type: Other Civil  
(Mechanic's Lien Foreclosure)

Bowlin Engineering Co.,  
Plaintiff,

vs.

Cameron Briard and Trudy Briard,  
d/b/a Ulen Locker;  
Northwestern Bank, N.A.;  
West Central Initiative; and  
United States of America, acting through  
the Small Business Administration,

Defendants.

COMPLAINT

Civil No. C8-05-431

Plaintiff Bowlin Engineering Company ("Bowlin"), for its complaint against the above-named defendants, states and alleges as follows:

1. Bowlin is a Texas corporation engaged in the business of engineering and design services with its principal place of business located at 600 Burlington Road, Fort Worth, Texas 76179-1310.

2. Defendants Cameron Briard and Trudy Briard, d/b/a Ulen Locker (the "Briards"), are residents of the State of Minnesota who currently are the fee owners in joint tenancy of certain real property situated in Clay County, Minnesota and legally described as follows:

Lots One through Five (1-5), in Block One (1), of Burtness First Addition to the City of Ulen, AND the South 100' of Lot Twenty-eight (28), together with one-half of the adjacent alley, in Block One (1), of Burtness Second Addition to the City of Ulen, Clay County, Minnesota.

The above-described real property herein shall be referred to as the "Property."

3. Defendant Northwestern Bank, N.A. is the owner of a mortgage and assignment of rents against the Property, which were recorded in the Clay County Recorder's office on April 30, 2004 at 4:06 p.m. as Document No. 595963 and Document No. 595964.

4. Defendant West Central Initiative is the owner of a mortgage against the Property which was recorded in the Clay County Recorder's office on September 1, 2004 at 2:17 p.m. as Document No. 662049.

EXHIBIT 7

5. Defendant United States of America, acting through the Small Business Administration, is the owner of a mortgage against the Property recorded in the Clay County Recorder's office on December 30, 2004 at 3:07 p.m. as Document No. 607140, by virtue of an assignment of mortgage executed by Minnesota Business Finance Corporation, recorded on December 30, 2004 at 3:07 p.m. as Document No. 607141.

6. On or about January 7, 2003, Bowlin entered into a contract with the Briards, whereby Bowlin agreed to provide the necessary engineering, design and costing services necessary for the construction of a meat packing plant facility erected upon the Property.

7. Pursuant to the aforementioned contract, Bowlin provided the necessary engineering, design and costing services for the construction and improvement to the Property.

8. All such labor and skill was provided by Bowlin in connection with the improvement of the Property and was provided at the specific request of the Briards.

9. The day of the first item of Bowlin's contribution to the improvement of the Property was January 7, 2003 and the date of Bowlin's last contribution was March 5, 2004.

10. On June 29, 2004, within 120 days after furnishing the last item of contribution to the improvements of the Property, Bowlin duly served its verified Mechanic's Lien Statement on the Briards. On June 29, 2004, within 120 days after furnishing the last item of its contribution to the improvement of the Property, Bowlin duly filed for record in the office of the Clay County Recorder, as Document No. 599004, its verified Mechanic's Lien Statement, a copy of which lien statement is attached hereto as Exhibit A and incorporated herein.

11. The price and fair and reasonable value of the labor and skill provided by Bowlin in connection with the engineering, design and costing services provided for improvement of the Property is \$68,330.00, the entire amount of which, is presently due and owing.

12. The Briards have breached the contract with Bowlin by failing to pay Bowlin the above-referenced price and fair and reasonable value of the labor and skill provided by Bowlin for the improvement of the Property and there is currently due and owing \$68,330 from the Briards to Bowlin.

13. The Briards have received a benefit from the labor and skill provided by Bowlin, have been unjustly enriched and, therefore, are jointly and severally liable to Bowlin in quantum meruit for the fair and reasonable amount of \$68,330.00.

14. In prosecuting this action, Bowlin has incurred, and will continue to incur, attorney's fees and other related costs and expenses.

15. By virtue of the facts stated above, Bowlin has a mechanic's lien upon the Property in the total amount of \$68,330.00, together with Bowlin's costs and disbursements in this action, the attorney's fees incurred by Bowlin the preparation and filing of its Mechanic's Lien Statement and the attorney's fees incurred by Bowlin in prosecuting this action.

**EXHIBIT 7**



16. That Bowlin's mechanic's lien is superior to the mortgage and assignment of rents of Northwestern Bank, N.A.. Northwestern Bank, N.A. had actual knowledge of the engineering work and services performed by Bowlin prior to the commencement of visible construction and prior to the recording of Northwestern Bank's mortgage and assignment of rents.

17. That Bowlin's mechanic's lien is prior and superior to the mortgages of West Central Initiative and the United States Small Business Administration, and to the claims of any party to this action.

WHEREFORE, Bowlin prays for judgment herein as follows:

1. Adjudging that Bowlin is entitled to recover from defendants Cameron Briard and Trudy Briard, jointly and severally, the sum of \$68,330.00, together with Bowlin's costs, disbursements and attorney's fees.
2. Adjudging that Bowlin is entitled to a specific mechanic's lien upon the Property in the amount of the judgment rendered pursuant to paragraph 1 of this prayer for relief.
3. Adjudging said lien to be prior and superior to the right, title and interest or lien of any and all of the parties to this action.
4. Directing the foreclosure of Bowlin's lien and the sale of the Property by the sheriff of Clay County, Minnesota, to satisfy the same according to law.
5. Directing the clerk of this Court to enter and docket a judgment in favor of Bowlin and against Cameron Briard and Trudy Briard, jointly and severally, for any deficiency remaining on the judgment after application of the proceeds of the sale as aforesaid.
6. For such other and further relief as the Court deems just and equitable.

Dated this 3<sup>rd</sup> day of March, 2005.

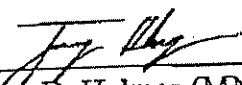
  
Jeremy D. Holmes (MN #030699X)  
For CONMY FESTE LTD.  
200 Wells Fargo Center  
P.O. Box 2686  
Fargo, ND 58108-2686  
Tel: (701) 293-9911  
ATTORNEYS FOR PLAINTIFF

EXHIBIT 7

ACKNOWLEDGMENT

The undersigned and the party I represent hereby acknowledge that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to M.S.A. § 549.21, subdivision 2, to the party against whom the allegations in this pleading are asserted.

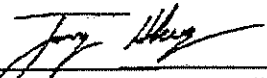
  
\_\_\_\_\_  
Jeremy D. Holmes (MN #030699X)  
CONMY FESTE LTD.  
200 Wells Fargo Center  
P.O. Box 2686  
Fargo, ND 58108-2686  
Tel: (701) 293-9911  
ATTORNEYS FOR PLAINTIFF

EXHIBIT 7

MAR-03-05

08:52

FROM: First Dakota Title, LLC

7012380217

T-336 P.010/D18 F-135

OFFICE OF COUNTY RECORDER  
COUNTY OF CLAY, MINNESOTATHIS INSTRUMENT WAS CERTIFIED, FILED  
AND/OR RECORDED ON 05/29/2004 AT  
11:55AM

AS DOCUMENT NO.

599004

*Nancy Gunderson Deputy*  
CLAY COUNTY RECORDER

PAGES: 3

p.d. Bob Bowlin  
600 Burlington Rd. @  
in Fort Worth, TX 76179-131060. 200.0010  
60. 225.0080

## MECHANIC'S LIEN STATEMENT

STATE OF NORTH DAKOTA )  
 ) ss  
COUNTY OF CASS )

Bob Bowlin, being first duly sworn on oath, deposes and states as follows:

1. I am the President of lien claimant Bowlin Engineering Co., a Texas corporation whose mailing address is 600 Burlington Road, Fort Worth, Texas 76179-1310, and I am authorized to sign this Mechanic's Lien on behalf of the corporation.

2. Bowlin Engineering Co. hereby gives notice of intention to claim and hold a lien upon the land in Clay County, Minnesota, described more fully as follows:

Lots One through Five (1-5), in Block One (1), of Burtness First Addition to the City of Ulen, AND the South 100' of Lot Twenty-eight (28), together with one-half of the adjacent alley, in Block One (1), of Burtness Second Addition to the City of Ulen, Clay County, Minnesota.

3. The amount of the lien claimed is \$68,330, and is due and owing to the lien claimant for labor performed or skill, material or machinery furnished to the land.

4. The lien claimant provided engineering and design services related to project development and improvement to the land.

EXHIBIT 7



5. The lien claimant's contribution to the improvement was performed or furnished from January 7, 2003 to March 5, 2004, for or to the following entity:

Cameron Briard, d/b/a Ulen Locker

6. The name of the present owners of the land according to the best information lien claimant now has is:

Cameron Briard and Trudy Briard

7. The lien claimant acknowledges that a copy of this statement must be served personally or by certified mail on the owner, the authorized agent of the owner or the person who entered into the contract with the lien claimant within 120 days of doing the last work or furnishing the last item of such skill, material or machinery.


8. Notice as required by Minnesota Statutes Section 514.011(2), if any, was given.

9. This Mechanic's Lien is filed pursuant to Chapter 514 of the Minnesota Statutes Annotated.

Dated this 29<sup>th</sup> day of June, 2004.

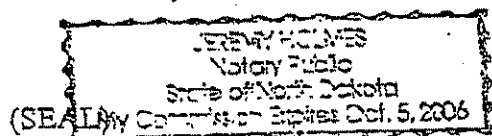
Bob Bowlin, being duly sworn, on oath says that I am a President of Bowlin Engineering Co., the lien claimant in the within statement, and have knowledge of the facts stated in the statement.

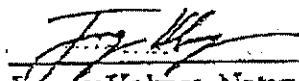
This statement is made at the instance of said lien claimant and is true of my own knowledge.

  
\_\_\_\_\_  
Bob Bowlin  
President

STATE OF NORTH DAKOTA     )  
  )ss.  
COUNTY OF CASS             )

Subscribed and sworn to before me this 29<sup>th</sup> day of June, 2004, by Bob Bowlin, President of Bowlin Engineering Co., on behalf of the corporation.



  
\_\_\_\_\_  
Jeremy Holmes, Notary Public  
State of North Dakota  
My commission expires:

This instrument was drafted by:

Jeremy D. Holmes  
(MN ID #030699X)  
Conmy Feste Ltd.  
200 Wells Fargo Center  
P.O. Box 2686  
Fargo, ND 58108-2686  
Tel: (701) 293-9911



# INNOVATIVE STRUCTURAL SOLUTIONS, P.A.

111 Thomas Park Drive • Monticello, MN 55362 • Phone: 763.295.5003 • Fax: 763.295.5004 • www.isseng.com

July 28, 2004

Patricia Munkel-Olson  
Investigator  
Minnesota Board of AELSLAGID  
85 East 7<sup>th</sup> Place  
Suite 160  
St. Paul, MN 55101

RECEIVED  
AUG 02 2004

FILE # 2004-0079

Dear Patricia;

This Letter is in response to your letter of inquiry relating to the involvement of Innovative Structural Solutions, PA with the Ulen Locker project, in Ulen, Minnesota.

We were first contacted by Mr. Bob Bowlin regarding this project during the fall of 2003. Mr. Bowlin then sent us some preliminary plans in January of 2004, requesting a formal proposal for the structural engineering services. We had a short telephone conversation regarding the project, and the impact of adding onto a pre-engineered metal building, such as snowdrift buildup, required frost depth for footings, etc. We provided the proposal for the structural engineering services on February 2, 2004 (copy enclosed). A week or two later, we received a signed copy of our proposal from Mr. Bob Bowlin. A day or so after that, Mr. Bowlin contacted our office and indicated that we could start the project.

We had an engineer start preliminary design of the exterior wall and roof structure, but no structural drafting was started for the project. A day or two after that, Mr. Bowlin again contacted our firm and said the project had been terminated.

Our firm never released any structural drawings or information (other than our earlier telephone conversations), nor did our firm ever bill Mr. Bowlin for our services.

We were never informed whom the architect for the project would be.

If you have any further questions regarding this investigation, please give us a call.

Sincerely,

Craig L. Blahut, PE  
President - Partner  
Innovative Structural Solutions, PA  
111 Thomas Park Drive  
Monticello, Minnesota 55362

Enclosure: Signed proposal

EXHIBIT 8